

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF LOS ANGELES

3 CERTIFIED COPY

4 - - -

5 RELIGIOUS TECHNOLOGY CENTER, A )  
6 California Non-Profit Religious )  
7 Corporation; CHURCH OF )  
8 SCIENTOLOGY INTERNATIONAL, A )  
9 Non-Profit Religious Corporation; )  
and CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, A Non-Profit )  
Religious corporation, )

10 Plaintiffs, )

11 vs. )

No: BC 033035

12 JOSEPH A. YANNY, an individual; )  
13 JOSEPH A. YANNY, a professional )  
law corporation, and DOES 1-25, )  
inclusive, )

14 Defendants. )  
15

16 DEPOSITION OF

17 JOSEPH A. YANNY

18 SANTA MONICA, CALIFORNIA

19 MARCH 10, 1992

20  
21 ATKINSON-BAKER AND ASSOCIATES, INC.  
22 CERTIFIED SHORTHAND REPORTERS  
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16 inclusive, )

17 Defendants. )

18 Deposition of JOSEPH A. YANNY, taken on behalf  
19 of the Plaintiff, at 3340 Ocean Park Boulevard, Suite  
20 1050, Santa Monica, California, commencing at 10:15  
21 a.m., Tuesday, March 10, 1992, before Jan Serra, CSR  
22 8207.  
23  
24  
25

A P P E A R A N C E S

FOR THE PLAINTIFF RELIGIOUS TECHNOLOGY CENTER:

LAW OFFICES OF WILLIAM DRESCHER  
BY: WILLIAM T. DRESCHER, ESQ.  
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Calabasas, California 91302  
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FOR THE PLAINTIFF CHURCH OF SCIENTOLOGY:

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Los Angeles, California 90028  
(213) 661-4030

FOR THE DEFENDANT:

LEWIS, D'AMATO, BRISBOIS & BISGAARD  
BY: DAVID B. PARKER, ESQ.  
221 North Figueroa Street  
Los Angeles, California 90012  
(213) 250-1800

THE REFEREE: THE HONORABLE THOMAS T. JOHNSON

ALSO PRESENT:

MATT WARD  
MICHAEL SUTTER

///

1	1	I N D E X	
2	WITNESS:	JOSEPH A. YANNY	
3	EXAMINATION		PAGE
4	BY MR. DRESCHER		6
5			
6			
7	EXHIBITS:		
8		DEFENDANT'S	
9	NUMBER	DESCRIPTION	PAGE
10		(None)	
11			
12	NUMBER	PLAINTIFF'S	PAGE
13		DESCRIPTION	
14	1 -	Withdrawn.	8
15	2 -	(Revised proposed) Defendants'	8
16		verified first amended answer to	
17		Plaintiff's verified complaint.	
18	1 -	Demand for jury trial.	
19		Verified Complaint for damages	10
20		and for temporary, preliminary and	
21		permanent injunctive relief for	
22		breach of fiduciary duty.	
23	///		
24	QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:		
25		(None)	
26			
27	INFORMATION TO BE SUPPLIED:		
28		(None)	
29			
30			
31			
32			
33			
34			
35			

1                   1                   JOSEPH A. YANNY,  
2                   2                   having first been duly sworn, was  
3                   3                   examined and testified as follows:  
4

2                   5                   MR. DRESCHER: Just for the sake of  
6                   6                   introductions -- most of the people are familiar with  
7                   7                   everyone, if not Your Honor -- my name is Bill  
8                   8                   Drescher, I represent Religious Technology Center, one  
9                   9                   of the plaintiffs.

10                   To my immediate right is Michael Sutter.  
11                   He is the corporate representative of Religious  
12                   Technology Center. (Indicating)

13                   To his right is Laurie Bartilson, who is  
14                   counsel for Church of Scientology of California.  
15                   (Indicating)

16                   And at the opposite end of the table,  
17                   next to Ms. Bartilson, is Mr. Matt Ward, who is a  
18                   paralegal and the corporate representative of the Church  
19                   of Scientology of California. (Indicating)

20                   We have no appearance today from  
21                   Mr. Quinn, who represents Church of Scientology  
22                   International. Although I will point out he's here in  
23                   spirit because his face is on my watch. It's the only  
24                   one I have at the moment that is working. So Mr.  
25                   Quinn has graciously agreed to let the questioning

2           1       suffice for his client as well. As I said, he's here  
          2       in spirit.

3                   THE WITNESS: It's not programmed?  
4

5                               EXAMINATION  
6

7       BY MR. DRESCHER:

8           Q       You have had your deposition taken  
9       before, so unless you object I'm not going to dwell on  
10      the normal descriptions, admonitions and introductory  
11      language.

12                   You're clear on procedure, aren't you?

13           A       I think so.

14           Q       We both need to remember, only one person  
15      can speak at a time.

16                   Are you comfortable with the gum?

17           A       Yes.

18                   MR. DRESCHER: I found that my hearing  
19      has suffered lately, if I can't hear I'll let you  
20      know.

21                   THE WITNESS: Um hum.

22           Q       BY MR. DRESCHER: If you can avoid the uh  
23      hum answer, would you do that please?

24           A       Uh hum.

25           Q       Any reason we shouldn't proceed today?

2

1 A That's a loaded question.

2 MR. PARKER: We're ready to proceed.

3 Q BY MR. DRESCHER: You have had adequate  
4 sleep, didn't you?

5 A That's argueable, but I'll stay awake.

6 Q You can't think of any particular reason  
7 why you're physically unable to continue today, is  
8 that right?

9 A Too metaphysical, but no.

10 MR. DRESCHER: I'd like to mark as  
11 Exhibit 1 for this deposition a copy of the "Verified  
12 Complaint for Damages and for Temporary Preliminary  
13 and Permanent Injunctive Relief for Breach of  
14 Fiduciary Duty."

15 I have a copy for the court which I have  
16 marked, and if there is no objection it will become an  
17 exhibit of this transcript.

18 THE WITNESS: That's fine.

19 THE REFEREE: That's fine.

20 MR. DRESCHER: For you, Mr. Yanny.

21 (Indicating)

22 And for you Mr. Parker, and the rest of  
23 the table.

24 ///

25

2 1 (The document referred to was  
2 marked by the CSR as Exhibit 1 for  
3 identification and attached to and  
4 made a part of this deposition.)  
5

6 MR. DRESCHER: Why don't we mark as  
7 Exhibit 2, which is a copy of the "Revised Proposed  
8 Defendant's Verified First Amended Answer to  
9 Plaintiffs' Verified Complaint and Demand for Jury  
10 Trial," which is no longer proposed. As I understand  
11 it.

12 Q BY MR. DRESCHER: Is that your  
13 understanding too, that you have been permitted and  
14 have filed an amended answer in this case?

15 A I have to check my records on that.

16 MR. PARKER: That is the case.  
17

18 (The document referred to was  
19 marked by the CSR as Exhibit 2 for  
20 identification and attached to and  
21 made a part of this deposition.)  
22

23 MR. DRESCHER: Mr. Yanny, take a second  
24 if you will and just satisfy yourself, or Mr. Parker,  
25 satisfy yourself that that's a copy of the verified

1 complaint and of the first amended answer.

2 (Indicating)

3 THE WITNESS: Could I please refer to the  
4 ones that have been marked for the record?

5 THE REFEREE: Sure, if you want to that's  
6 fine.

7 THE WITNESS: Thank you.

8 MR. PARKER: On Exhibit 1, page 13, does  
9 everyone else have a problem with that page? I'm  
10 missing --

11 Thirteen is miscopied and 14 isn't here.  
12 And I suspect what it is is that 14's hiding.

13 MR. DRESCHER: Is that the copies we had  
14 made here?

15 MR. WARD: Yes.

16 MS. BARTILSON: I have a clean copy here.  
17 (Indicating)

18 MR. DRESCHER: Does yours have the same  
19 difficulty?

20 THE REFEREE: Yes.

21 MR. DRESCHER: All the copies we have  
22 here made do.

23 MR. PARKER: We can replace them later.

24 MR. DRESCHER: I have a clean one here  
25 for Mr. Yanny.

2           1                   THE REFEREE:  If you have a clean one,  
2           2           why don't we mark that as Exhibit 1?  
3

4                               (The document referred to was  
5                   remarked by the CSR as Exhibit 1 for  
6                   identification and attached to and  
7                   made a part of this deposition.)  
8

9           Q           BY MR. DRESCHER:  If you take a look at  
10          the copy of the first amended answer, see if there are  
11          any copies problems there?

12          A           (Complying)

13                       MR. PARKER:  Exhibit 2 appears to be  
14          complete.

15          Q           BY MR. DRESCHER:  Let's start with  
16          Exhibit 2 then, Mr. Yanny.

17                       If you'll turn to the sixth page from the  
18          end?

19          A           (Complying)

20                       MR. PARKER:  Counting the service?

21                       MR. DRESCHER:  Yes.

22          Q           BY MR. DRESCHER:  It should be a standard  
23          form verification.

24                       Do you see that Mr. Yanny?

25          A           Yes.

2           1           Q       You have it in front of you.

          2                   There is a signature there that purports

          3       to be yours.

          4                   Do you have a recollection of verifying

          5       the first amended answer in this form?

          6           A       Uhm, as I sit here today I do not

          7       specifically recall verifying, but I'm sure that I

          8       probably did verify an answer.

3           9           Q       Does that look like your signature?

          10       (Indicating)

          11          A       Yes, it does.

          12          Q       The verification does it not --

          13                   It's actually a double verification, one

          14       as a party to the action and one as an officer of

          15       Joseph A. Yanny, a professional corporation.

          16                   Is that your understanding as well?

          17          A       I wouldn't want to draw legal

          18       conclusions.

          19          Q       Did you sign it on behalf of both

          20       defendants?

          21          A       I don't currently recall.

          22          Q       Do you have any reason to doubt that

          23       that's your signature on that particular page?

          24          A       I have no reason to doubt that that's my

          25       signature.

3 1 Q Do you notice that on the verification on  
2 behalf of the professional corporation the second box  
3 is checked that says that "I am informed and believe  
4 and on that grounds allege that the matters stated in  
5 the foregoing documents are true?"

6 A Yes.

7 Q Have you read your amended answer in this  
8 case?

9 A At some point in time I'm sure I did.

10 Q And you approved its filing?

11 A I don't really understand the question.

12 Q Did you okay a motion brought by your  
13 counsel for leave to file an amended answer in this  
14 case?

15 A Insofar as that would involve  
16 attorney-client communications I would object on the  
17 grounds of privilege.

18 MR. PARKER: You're not asking for the  
19 contents?

20 MR. DRESCHER: We have a referee, there  
21 is no objection.

22 THE REFEREE: I think you can answer  
23 that. We're not talking about contents at the moment.  
24 We're talking about did you okay the, having this  
25 done. You can answer that.

3           1           A           I'm sure I would have been consulted  
2           about the filing of a second amended complaint and a  
3           motion.

4           Q           BY MR. DRESCHER: First amended answer?

5           A           Whatever it was.

6           Q           This document?

7           A           I don't know if it was this document.

8           Q           So you don't really know if this is the  
9           answer or not in other words?

10          A           That is correct.

11          Q           You don't know whether you actually  
12          verified it or not?

13          A           Verified what?

14          Q           The first amended answer.

15          A           If there was an amended answer filed and  
16          I was to have verified it, I would have verified it.

17          Q           You're just not sure it's this particular  
18          document?

19          A           That is correct.

20          Q           We're going to work from the assumption  
21          it is. If it turns out it isn't, then it isn't. It's  
22          the one that was served on us.

23                      As to the defendant, "Joseph A. Yanny, a  
24          professional corporation," you're a shareholder in  
25          that entity, are you not?

3           1           A           Yes.

          2           Q           Are there any other shareholders?

          3           A           No.

          4           Q           When was Joseph A. Yanny, a professional

          5           corporation, first incorporated?

          6           A           As I sit here, I don't currently recall.

          7           Q           What's your best approximation?

          8           A           I wouldn't want to speculate.

          9           Q           Do you have any recollection as you sit

         10           here, whatsoever?

         11           A           As I sit here, no.

         12           Q           Apart from --

         13                       Who is representing Joseph A. Yanny, the

         14           defendant, in this lawsuit?

         15                       MR. PARKER: I'm representing him.

         16                       MR. DRESCHER: I understand that. I'm

         17           not talking about the deposition.

         18           Q           BY MR. DRESCHER: How many law firms are

         19           represented in this action?

         20                       MR. PARKER: I object to that question.

         21           The counsel of record is a matter of record and it's

         22           really not relevant to the subject matter of this

         23           deposition.

         24                       MR. DRESCHER: The purpose is that there

         25           is some real confusion on our part of who is

3 1 representing whom. There are three law firms that  
2 have made appearances.

3 MR. PARKER: If that had been a question  
4 I'm sure Mr. Drescher would have made a phone call to  
5 me so we could clarify it. But I'm not sure why he's  
6 posing that question to my client.

7 THE REFEREE: What is the state of the  
8 record as to who is representing Mr. Yanny?

9 Are we asking about the corporation or  
10 Mr. Yanny?

11 MR. DRESCHER: Mr. Yanny.

12 MR. PARKER: The state of the record is  
13 reflected in the pleadings we filed of late, since the  
14 dismissal of the cross complaints, that there are  
15 three counsel of record for the two defendants, and  
16 they are Mr. Yanny himself, Patrick Smith, in Dayton,  
17 Ohio, and my firm.

18 MR. DRESCHER: Thank you.

19 Q BY MR. DRESCHER: Mr. Yanny, have you  
20 spoken with anyone other than any of your current  
21 counsel of record about the testimony that you're  
22 intending to give here today?

23 A That's a pregnant question.

24 I don't know what questions you're going  
25 to ask, so obviously I don't know what testimony I'm

3           1       going to give.

2           Q       Let me rephrase.

3                    Did you have any discussions with anyone

4       other than your current counsel of record concerning

5       this deposition before arriving here today?

6           A       No.

7           Q       When is the last time you spoke with --

8       either face-to-face or over the telephone -- Vicki

9       Aznaran?

10          A       I don't recall.

11          Q       Was it within the last month?

12          A       Possibly.

13          Q       Within the last two weeks?

14          A       I don't think so.

15          Q       But it could have been more than a month,

16       is that right?

17          A       I'm -- I really don't understand the

18       question as posed.

19          Q       You said it was possibly within the last

20       month that you last spoke with Vicki Aznaran, either

21       by telephone or in person?

22          A       Uh hum.

23          Q       Is that your best recollection that it

24       was within the last month?

25          A       As I sit here today I don't have a best

4           1       recollection of when I last spoke to Vicki Aznaran.

2           Q       Do you have any recollection at all?

3           A       No.

4           Q       Do you recall the last time that you  
5 spoke, either face-to-face or by telephone, with  
6 Richard Aznaran?

7           A       Can I hear the question back please?

8           THE REFEREE: Read it back please.

9

10                   (The record was read as follows:

11                   Q       Do you recall the last time  
12 that you spoke, either face-to-face or by  
13 telephone, with Richard Aznaran?)

14

15           A       No.

16           Q       BY MR. DRESCHER: Was it within the last  
17 month?

18           A       I've already said I don't have any  
19 recollection of the last time.

20           Q       You do have a recollection at some  
21 time -- sometime, somewhere -- speaking with Richard  
22 Aznaran, don't you?

23           A       On many occasions.

24           Q       You have no recollection as to when the  
25 last was?

4 1 A No. I wouldn't want to guess.

2 Q None whatsoever?

3 A I've already answered that.

4 Q Was it within the last six months?

5 A I'm sure it was.

6 Q How about the last three months?

7 A Probably.

8 Q The last two months?

9 A I don't know.

10 Q When was the last time, Mr. Yanny, you

11 spoke either in person or by telephone with Gerald

12 Armstrong?

13 A Yesterday.

14 Q How long of a discussion was it?

15 A Very brief.

16 Q How brief?

17 A A few minutes.

18 Q Less than five?

19 A Uh hum.

20 Yes.

21 Q More than one?

22 A I'm sure we would have used up our three

23 minute free toll call.

24 Q So it was by telephone?

25 A Yes.

4 1 Q Did you call him or did he call you?

2 A I believe he called.

3 He called me.

4 Q You did not mention this deposition to  
5 him at all in that phone call yesterday?

6 MR. PARKER: Objection. Object to any  
7 disclosure of the contents of the conversation based  
8 on attorney-client privilege and priest-penitent  
9 grounds.

10 Q BY MR. DRESCHER: Do you currently  
11 represent Mr. Armstrong as his attorney in any  
12 fashion?

13 A I'm afraid that may call for a legal  
14 conclusion, which according to your allegations I'm  
15 unqualified to make.

16 Q Which allegations are those, Mr. Yanny?

17 A You called me here as a witness, not as  
18 an expert.

19 Q Your counsel has asserted an  
20 attorney-client privilege in the conversation between  
21 you and Mr. Armstrong.

22 To your knowledge is Mr. Armstrong a  
23 member of the bar?

24 A No.

25 Q Are you?

4 1 A Yes.

2 Q So is it your understanding that in that

3 context, of the attorney-client privilege, you're the

4 attorney and Mr. Armstrong is the client, is that

5 correct?

6 A I'm not going to speculate on what my

7 counsel's state of mind was when he interposed that

8 objection.

9 Q Do you understand what the word

10 "represent" means in the context of an attorney and

11 client?

12 A Yes.

13 Q Tell me what you understand that to mean?

14 A I have an understanding of it, but I

15 would have a tough time translating it.

16 Q Take a shot Mr. Yanny?

17 A I would rather not guess.

18 Q I'd rather you do.

19 Let's -- you said you have a definition

20 of it. I'd like to hear it.

21 A I said I had an understanding.

22 Q Please tell me your understanding?

23 A No.

24 MR. PARKER: You were -- this line of

25 questioning is harassment. The man has a

4 1 lawyer-client relationship.

2 THE REFEREE: Is it your position you  
3 have an attorney-client relationship with  
4 Mr. Armstrong, yes or no?

5 MR. PARKER: That's our position.

6 THE REFEREE: You represent him? Do you  
7 represent him at this time?

8 MR. PARKER: I understand Your Honor's  
9 question to mean is there a lawyer-client relation,  
10 "represent" may imply litigation.

11 THE REFEREE: That's right.

12 Is it your position you have an  
13 attorney-client relationship with him at this time?

14 MR. PARKER: Let me interject and ask if  
15 I can clarify the question.

16 If my client had an attorney-client  
17 relationship in the past, but not now, there can still  
18 be a privilege with respect to past confidences.

19 THE REFEREE: That's true.

20 I'm trying to figure out what we're  
21 talking about at any stages here.

22 MR. PARKER: Maybe I can cut through it  
23 by talking to the client briefly outside.

24 THE REFEREE: Please do so.

25 MR. DRESCHER: Because Judge Cardenas has

4 1 imposed time limits on this, I'd appreciate that the  
2 length of time of any break such as this be timed by  
3 the court reporter.  
4

5 (Whereupon, the witness  
6 and counsel left the deposition  
7 room 10:35 a.m. to 10:36 a.m.)  
8

9 MR. PARKER: Your Honor was asking  
10 whether there is a present attorney-client  
11 relationship.

12 THE REFEREE: Yes.

13 MR. PARKER: Go ahead and answer.

14 A I don't believe that there is, except  
5 15 whatever residuals may remain from prior consultation.

16 Q BY MR. DRESCHER: So am I correct  
17 therefore in assuming, Mr. Yanny, that there was a  
18 past attorney-client relationship with you as a lawyer  
19 and Mr. Armstrong as a client, yes or no?

20 A In my opinion, in that I had been  
21 consulted by Mr. Armstrong regarding handling  
22 potential intellectual property interests, that he  
23 might possess, I believe that there, there probably  
24 was an attorney-client relationship insofar as I had  
25 been consulted.

5           1           Q           When was your first consultation with Mr.  
2           Armstrong on that subject?

3           A           I would only be speculating.

4           Q           Can you give me a year?

5           A           No, I really can't.

6           Q           When was your last --

7           A           I can't recall that either.

8           Q           Not even the year?

9           A           No, I really can't.

10          Q           But you recognize ongoing duties with  
11          respect to those consultations with Mr. Armstrong  
12          under the attorney-client relationship, is that  
13          correct?

14          A           I have acted with utmost confidence.  
15                      I don't know what duty I recognize or  
16          don't recognize except that I will state it for the  
17          record.

18          Q           You understand by the attorney-client  
19          privilege asserted by your counsel in that respect --

20                      MR. PARKER: I haven't asserted it in  
21          response to any pending question.

22                      MR. DRESCHER: Yes you did, when I asked  
23          the content of the conversation between Mr. Yanny and  
24          Mr. Armstrong.

25                      MR. PARKER: Let's talk about the here

5           1           and now. Just ask him a question.

2           Q           BY MR. DRESCHER: With respect to the

3           question I asked you, what did you and Mr. Armstrong

4           say to one another in your phone conversation

5           yesterday?

6           A           May I speak to my counsel briefly?

7           THE REFEREE: Alright.

8

9                       (Whereupon, the witness

10           and counsel left the deposition

11           room 10:34 a.m. to 10:35 a.m.)

12

13           A           I believe the only thing that was

14           discussed was the weather up north, Marin -- down

15           south here in California -- and the fact that Mr.

16           Armstrong would be traveling to Los Angeles, I believe

17           he said, next week for his deposition in this case.

18           He and Ms. Phippany and Ford Greene, Esquire.

19           Q           BY MR. DRESCHER: That's all you recall

20           being discussed?

21           A           Yes.

22           Q           In that few minute phone call?

23           A           Yes, maximum few minutes.

24           Q           More than one, less than five?

25           MR. PARKER: This has been asked and

1 answered.

2 THE REFEREE: I think it has been asked  
3 and answered.

4 MR. DRESCHER: I will move on.

5 A (No response)

6 Q BY MR. DRESCHER: When was the last time,  
7 Mr. Yanny, you had any face-to-face or telephonic  
8 communication with Barry Van Sickle?

9 A Months ago. I wouldn't even want to  
10 speculate.

11 Q Have you had any communication with Mr.  
12 Van Sickle about this case since he was relieved as  
13 your counsel by Judge Cardenas?

14 MR. PARKER: Mr. Van Sickle is my  
15 client's former lawyer. He's the man that I replaced.  
16 Whatever conversation they may have had on this case  
17 are privileged.

18 MR. PARKER: I only asked about the fact  
19 of the communication.

20 MR. DRESCHER: The fact is irrelevant.

21 THE REFEREE: Well, I find it hard to see  
22 how we could get something or elicit something that  
23 would be admissible or useful here, but I'll overrule  
24 the objection just for the question about the fact of  
25 a conversation. If any.

1 THE WITNESS: Can I hear the question  
2 back?

3 MR. DRESCHER: I'll repeat it.

4 Q BY MR. DRESCHER: Have you had any  
5 telephonic or face-to-face communications with Mr. Van  
6 Sickles since he was relieved as your counsel in this  
7 case?

8 A I don't technically know when he was  
9 relieved as counsel of record in this case, one. So  
10 that would be very difficult for me to speculate  
11 about.

12 Q It was the second week of November, 1991.

13 A Thanks for clarifying that.

14 I don't really know, but I doubt it.

15 Q Did you review any documents in  
16 preparation for your deposition, Mr. Yanny?

17 A No.

18 Q None whatsoever?

19 A None whatsoever.

20 Q Thank you.

21 Let me ask you to take a look at  
22 paragraph 15 of the verified complaint. It starts on  
23 page seven.

24 A (Complying)

25 MR. DRESCHER: And after you look that

5           1       over I'd ask you also to look over paragraph 15 of  
2           2       your verified amended answer.

3                   THE WITNESS: Paragraph 15?

4                   MR. DRESCHER: Yes.

5  
6                               (Pause in proceedings.)  
7

8                   MR. DRESCHER: I appreciate that your  
9       counsel numbered the response to each paragraph of the  
10      complaint corresponding to the answer. So throughout  
11      the answer the numbers do correspond.

12                  THE WITNESS: You made some other  
13      comments.

14                  This is all you want me to review?

15      (Indicating)

16                  MR. DRESCHER: Just paragraph 15 of each  
17      document.

18                  THE WITNESS: (Complying)

19  
20                               (Pause in proceedings.)  
21

22                  THE WITNESS: Okay.

23           Q       BY MR. DRESCHER: Thank you, Mr. Yanny.  
24                   It is correct that you entered an  
25      appearance for Vicki and Richard Aznaran in "Aznaran

5           1       versus Church of Scientology of California," the case  
2           2       referenced in paragraph 15?

3                       It is true that you entered an appearance  
4           4       as your counsel of record in that case, is it not?

5                       MR. PARKER:  Objection, Your Honor.  His  
6           6       answer says that.

7                       MR. DRESCHER:  His answer says a lot of  
8           8       things that are contradicted elsewhere.

9                       MR. PARKER:  It's a matter of public  
10          10       record and he's admitted it right here in the record.  
11          11       He need not inquire further of that fact.

12                      THE REFEREE:  I'm going to treat this as  
13          13       a preliminary question to other questions.  Let's see  
14          14       if we can get this going.

15                      A           I'm not so sure of the case number set  
16          16       forth in paragraph 15 of the complaint.

17                      When I say "complaint" I'm referring to  
18          18       Exhibit 1 for the record.

19                      Q           BY MR. DRESCHER:  Did you enter an  
20          20       appearance for Vicki --

21                      A           I wasn't finished with my answer.

22                      Q           I'll change the question.

23                      Did you enter an appearance as counsel of  
24          24       record for Vicki and Richard Aznaran in a lawsuit  
25          25       pending before Judge -- in the United States District

1 Court this last June?

2 A I'm not so sure I made an appearance  
3 until such time that the court approved it. I don't  
4 believe it was approved until July.

5 I did make an appearance for Vicki and  
6 Richard Aznaran, as I've admitted in my answer, in a  
7 case that was then in front of Judge Edelman in the  
8 United States District Court for the Central District  
9 of California, that everybody has affectionately  
10 referred to as the "Aznaran case," that involved  
11 causes of action for locking Vicki in the --

12 MR. DRESCHER: Move to strike as  
13 non-responsive, Your Honor.

14 A -- depriving her of medical care.

15 MR. DRESCHER: This is exactly why we  
16 have a referee.

17 THE REFEREE: I think you've answered the  
18 question sufficiently for the moment.

19 Let's go ahead.

20 Q BY MR. DRESCHER: Mr. Yanny, let me ask  
21 the questions please.

22 You're obviously familiar with the  
23 allegations of the Aznaran complaint. I'm not asking  
24 about the allegations, I'm asking only how the claims  
25 for relief, causes of action in that complaint are

1 styled.

2 Would you please tell me what the names  
3 of the causes of action are in that complaint?

4 MR. PARKER: Objection, Your Honor, that  
5 complaint is in another lawsuit and what it says is a  
6 matter of public record. It speaks for itself.

7 There's no purpose served by testing my  
8 client's memory of the words that appear in the  
9 caption preceeding each claim for relief.

10 MR. DRESCHER: The reason Mr. Parker and  
11 Mr. Yanny are hesitant about this question is Mr.  
12 Yanny has repeatedly denied that among the causes of  
13 action asserted by the Aznarans are fraud and --

14 MR. PARKER: Nobody is denying what the  
15 complaint says.

16 Counsel has a copy. If he wants to put  
17 it in front, that's fine.

18 MR. DRESCHER: Mr. Yanny has so many  
19 conflicting statements under oath, just in the  
20 document in front of us, we're going to get to some  
21 trial testimony that's quoted in the complaint that he  
22 denies --

23 We're entitled to figure out what it is,  
24 and particularly on the issue of substantial  
25 relationship between causes of action.

1 MR. PARKER: His present memory of that  
2 document is not relevant. It's not probative of any  
3 evidence in this case.

4 MR. DRESCHER: This is a deposition, not  
5 a trial.

6 THE REFEREE: For whatever limited  
7 purpose, this is going to really have -- in the long  
8 run I'll overrule the objection for the moment.

9 If you want to re-state your question --

10 Q BY MR. DRESCHER: To your recollection,  
11 do the Aznarans have a fraud cause of action in that  
12 complaint?

13 A As I currently sit here, I don't recall.

14 Q Do you see in paragraph 15 of your answer  
15 where you denied that --

16 A Oh, of my answer?

17 MR. PARKER: His answer speaks for  
18 itself. There is no point.

19 MR. DRESCHER: Actually, Mr. Parker is  
20 right on that.

21 I'll let that one go.

22 Q BY MR. DRESCHER: As you sit here today,  
23 Mr. Yanny, do you have a recollection that the  
24 Aznarans, or either Aznaran has a cause of action in  
25 their case for infliction of emotional distress?

1 MR. PARKER: When you have, I assume you  
2 mean the complaint contains a purported claim?

3 MR. DRESCHER: A claim that is styled for  
4 emotional distress.

5 A I believe there is a cause of action for  
6 emotional distress for the result of having been  
7 imprisoned in the desert for a number of months by  
8 your clients, in which she was forced to run around  
9 the pole, clockwise, in the desert sun, for twelve  
10 hours, and the next day counter-clockwise in the  
11 desert sun until she made an escape.

12 Q BY MR. DRESCHER: Your answer is?

13 A One for emotional distress.

14 MR. DRESCHER: This is precisely the  
15 reason we have this referee, and I ask the court to be  
16 sensitive to Mr. Yanny's parade.

17 Q BY MR. DRESCHER: Where is this desert,  
18 what city?

19 THE REFEREE: City?

20 Q BY MR. DRESCHER: City?

21 A I don't know that it is in a city.

22 Q Can you describe its location  
23 geographically?

24 A East of here.

25 Q Do you know a town name nearby?

7           1           A           No.

2           Q           Ever been to this desert?

3                   MR. PARKER: I object.

4                   These questions, which apparently have

5 something to do with another lawsuit, have nothing to

6 do with this case.

7                   MR. DRESCHER: This is Mr. Yanny's

8 typical response to a question. I want him to tell me

9 where the desert is.

10                  MR. PARKER: I have addressed, to the

11 Judge, an objection.

12                  THE REFEREE: Sustained.

13                  MR. DRESCHER: Unless it is a significant

14 point, since Mr. Yanny is sitting here telling you

15 it's in the desert when he knows it's not.

16                  THE REFEREE: But I really don't see that

17 it's, so far, significant.

18                  On the one hand I'm not taking it as

19 significant because I didn't really feel like it was

20 responsive to the question you asked.

21                  If you think it's responsive to the

22 question you asked, maybe we're in another ballpark,

23 but I don't think so.

24                  MR. DRESCHER: Thank you.

25           Q           BY MR. DRESCHER: I'm going to ask you a

7 1 series of yes and no questions Mr. Yanny.

2 To your knowledge --

3 THE REFEREE: I predict this is wishful  
4 thinking.

5 MR. DRESCHER: That's one of the reasons  
6 you're here. (Indicating the Referee)

7 Q BY MR. DRESCHER: To your knowledge, was  
8 Ms. Aznaran formerly a staff member of Religious  
9 Technology Center?

10 MR. PARKER: Your Honor, I was inclined  
11 to --

12 Let me register the objection this way.  
13 To the extent that the witness is asked to reveal  
14 information given to him in confidence by the  
15 Aznarans, then I object to it on the attorney-client  
16 privilege grounds.

17 To the extent that he may have that  
18 information because it was given to him while she was  
19 at the Church and while he represented the Church, or  
20 came to him from sources elsewhere in the Church, then  
21 that's not privileged. Because the Church, by suing  
22 Mr. Yanny has made that fair game so to speak, open  
23 public record, and he can give that information.

24 I do not want him disclosing and I object  
25 to any disclosure of privileged communications with

1 the Aznarans.

2 THE REFEREE: I think that's a legitimate  
3 objection. And it's noted. But --

4 MR. PARKER: Can you answer the question?

5 THE WITNESS: Can I hear it back?

6 Q BY MR. DRESCHER: Was Ms. Aznaran  
7 formerly a member of the Religious Technology Center  
8 to your knowledge?

9 A "Formerly?" I don't really know what to  
10 tell you about that.

11 Oftentimes doctoring of the records --

12 MR. DRESCHER: You've answered the  
13 question.

14 THE REFEREE: Gentleman, gentleman.

15 We can have an answer to the question,  
16 and if it's appropriate to strike the answer we can do  
17 that.

18 THE WITNESS: I do know, in further  
19 answer to the question --

20 MR. DRESCHER: I object, there is no --

21 THE WITNESS: -- that she was reported to  
22 be the president of the Religious Technology Center.  
23 Whether that made her a staff member or not, I don't  
24 know.

25 Q BY MR. DRESCHER: To your knowledge, was

7           1       Mr. Aznaran ever employed as a staff member of any  
2           2       Church of Scientology?

3                   MR. PARKER: Same objection.

4                   And admonition. But I think you can  
5           5       answer it consistent with that.

6                   THE REFEREE: You can you have a running  
7           7       objection and admonition.

8                   THE WITNESS: May I hear the question  
9           9       back please?

10                  THE REFEREE: Read it back please.

11  
12                               (The record was read as follows:

13                   Q       BY MR. DRESCHER: To your  
14                   knowledge, was Mr. Aznaran ever employed  
15                   as a staff member of any Church of  
16                   Scientology?)

17  
18           A       I will qualify the answer as follows.  
19                   Insofar as "employed" is used, I would  
20           20      prefer not to deal with that particular term because  
21           21      that is something beyond my expertise.

22                   "Staff member," I have a problem with  
23           23      that because it is a colloquial term used within the  
24           24      organization which I'll refer to Scientology as. And  
25           25      I do know, however, that he was associated in some

7 1 fashion with the organization.

2 I don't know which alleged Church he was  
3 affiliated with, but I do know that he was from  
4 time-to-time associated with OSA Int., and coordinated  
5 quite closely with Marty Rathbun, who held the title  
6 "Special Project L" from at least 1981 or '82. And I  
7 continued my disassociation with the organization.

8 Q BY MR. DRESCHER: When was your  
9 disassociation Mr. Yanny?

10 A It would have been towards the end of  
11 1987.

12 Q How long did you represent Religious  
13 Technology Center or any of the plaintiffs as their  
14 lawyers?

15 A As I sit here, I don't recall.

16 Q Do you recall when you began that  
17 representation?

18 A As I sit here, no.

19 Q You do recall representing Religious  
20 Technology Center at one time or another?

21 A Yes, as well as Church of Scientology  
22 International, Church of Scientology California, L.  
23 Ron Hubbard's estate.

24 I believe I may have even made an  
25 appearance on behalf of L. Ron Hubbard once or twice.

7  
8  
1 I have made an appearance on behalf of  
2 David Miscavige and Author Services.

3 Q What case did you appear with Mr.  
4 Miscavige?

5 A The FAIR suit.

6 Q Freedom for All In Religion?

7 A Such a reprehensible concept, but yes.

8 Q What case did you represent Mr. Hubbard?

9 A As I sit here there may have been a  
10 couple, I don't really recall. I at least did work  
11 for him, no matter who paid for it?

12 Q Did you ever represent Ms. Aznaran, as an  
13 individual, back in the period from 1983 to '87?

14 A Yes.

15 Q In what case?

16 A It would have been the FAIR suit as well,  
17 although no formal appearance was made since she was  
18 an unserved party.

19 And I did that at the request of the  
20 organization, Scientology.

21 Q Who specifically in the organization?

22 A Marty Rathbun.

23 And I believe David Miscavige as well  
24 asked me to do that.

25 Q He directly asked you?

1 A Yes.

2 Q How many times have you met Mr.

3 Miscavige?

4 A It would be too many to count.

5 Q Is that greater than one?

6 A I'm not going to get into argumentative  
7 nonsense.

8 Q Is it greater than one?

9 A Much greater.

10 Q As in more than two?

11 A It would be more than two or three dozen.

12 Q How many occasions have you actually  
13 spoken with Mr. Rathbun?

14 A Again, too many to recount.

15 Q More than two or three dozen?

16 A Yes.

17 Q By "communication" you mean -- I mean,  
18 and I hope you understood it to mean face-to-face or  
19 telephonic.

20 Is that what you were answering to as  
21 opposed to written?

22 A Written, there would be many more than  
23 that.

24 But as they were always in the  
25 communication loop or in any communication involving

8 1 any litigation involving any individual in Scientology  
2 or outside of Scientology, or any organization of  
3 Scientology, Special Project L was always copied. And  
4 D.M.V., David Miscavige.

5 MR. DRESCHER: Move to strike after "many  
6 more."

7 THE REFEREE: Strike the balance.

8 Q BY MR. DRESCHER: During the course of  
9 representing Religious Technology Center did you have  
10 any role in a case or cases titled Religious  
11 Technology Center versus Scott, or Religious  
12 Technology Center versus Wollersheim?

13 THE WITNESS: May I hear that question  
14 back please?

15  
16 (The record was read as follows:

17 Q BY MR. DRESCHER: During  
18 the course of representing Religious  
19 Technology Center did you have any role  
20 in a case or cases titled Religious  
21 Technology Center versus Scott, or  
22 Religious Technology Center versus  
23 Wollersheim?)

24  
25 (Discussion held off the record.)

1 A Yes.

2 Q BY MR. DRESCHER: You were a counsel for  
3 the plaintiffs in that case, is that --

4 A And the cross defendants.

5 Q So there were counterclaims in other  
6 words?

7 A Counter defendants. It was a federal  
8 case.

9 Q But you did represent counter defendants  
10 in those --

11 Those cases were consolidated were they  
12 not?

13 A Eventually.

14 One was brought in January of '85 and the  
15 other in November of '85. One was 85-711. The other  
16 85-7197. They were consolidated motions.

17 I believe, just for the record, that  
18 there was no differentiation of interest or counsel in  
19 those cases. I appeared with other people for Church  
20 of Scientology California, Religious Technology Center  
21 and Church of Scientology International in that case.

22 Q In both claims and counterclaims?

23 A Whenever they popped their heads up,  
24 yeah.

25 Q Do you recall whether there were any --

1 By the way -- You went into great detail  
2 about Ms. Aznaran and things that supposedly happened  
3 in the desert.

4 Did you ever hear the term "RPF?"

5 A Yes.

6 Q What does "RPF" stand for?

7 A "RPF" stands for a process.

8 Q You misunderstand the question.

9 Do you understand what the letters "RPF"  
10 denote?

11 What do the letters stand for?

12 A Rehabilitation Project Force I believe.

13 Q Do you recall whether in the course of  
14 your representation of the various entities in  
15 Religious Technology Center versus Scott, you had a  
16 slang for that, didn't you, called Religious  
17 Technology Center versus Scott and Religious  
18 Technology Center versus Wollersheim?

19 A There was RICO-1 and RICO-2, and after  
20 consolidation we referred to them as "the RICO case."

21 MR. DRESCHER: I'll refer to them as "a  
22 RICO case."

23 THE WITNESS: We have now arrived at a  
24 convention.

25 MR. DRESCHER: We will both call it that

8 1 anyway.

2 Q BY MR. DRESCHER: The RICO case, was  
3 there or was there not a counterclaim asserted against  
4 your clients concerning one of the counterclaimant's  
5 alleged experiences on the RPF?

6 THE WITNESS: May I hear that back again  
7 please?

8  
9 (The record was read as follows:

10 Q BY MR. DRESCHER: The RICO  
11 case, was there or was there not a  
12 counterclaim asserted against your  
13 clients concerning one of the  
14 counterclaimant's alleged experiences on  
15 the RPF?)

16  
17 A I believe that prior to 1985 --  
18 As a matter of fact, before 1983 David  
19 Mayo, one of the defendants and eventually one of the  
20 counterclaimants, had made, had been RPF'd so to  
21 speak, as they call it within the organization. And  
22 made allegations that he had been locked in the desert  
23 and deprived of food, deprived of water, medical care,  
9 24 and that he had suffered substantial physical injury  
25 and emotional injury as a result of the activities

9           1       that he had been subjected to while on the RPF  
2           2       someplace in the desert, I believe it was referred to  
3           3       as Happy Valley.

4           Q       Is it your recollection that Mr. Mayo had  
5           5       been a staff member of one or more of your clients in  
6           6       that case?

7           A       "Staff member" again is a term of art,  
8           8       and I really don't want to get into that.

9                   He had been associated with the  
10          10       organization to the best of my recollection.

11                  He had been one of the actual  
12          12       incorporators of the Religious Technology Center as a  
13          13       result of the MCCS, sort out of the corporate  
14          14       structure. As a result of litigation and tax  
15          15       problems.

16                  "Staff member," I'm trying to explain.

17          Q       Did you ever hear the term "senior case  
18          18       supervisor international?"

19          A       Yes.

20          Q       Did you ever come across any information  
21          21       that Mr. Mayo held a post with the title "senior case  
22          22       supervisor international?"

23          A       Yes.

24          Q       You've heard the term "president of the  
25          25       Religious Technology Center," have you not?

1 A Yes.

2 Q Is it your understanding or were you ever  
3 told by anyone that Vicki Aznaran was once president  
4 of Religious Technology Center?

5 MR. PARKER: Asked and answered.

6 MR. DRESCHER: I'm not at all sure.

7 THE REFEREE: You may answer that one.

8 THE WITNESS: May I hear it back?

9 Q BY MR. DRESCHER: I'll rephrase it.

10 Did anyone ever represent to you that Ms.  
11 Aznaran was ever president of Religious Technology  
12 Center?

13 A Yes.

14 Q Amongst the counterclaims asserted by Mr.  
15 Mayo in the RICO case, was there a counterclaim made  
16 by him for emotional distress?

17 MR. PARKER: For the record, may I have a  
18 standing objection that the contents of these as  
19 public records speak for themselves?

20 THE REFEREE: Yes.

21 A I believe he did, yes.

22 Q BY MR. DRESCHER: Did Mr. Mayo, to your  
23 recollection, assert a counterclaim against one or  
24 more of the defendants for fraud?

25 A I don't recall.

9 1 MR. DRESCHER: Mr. Yanny, if you'll look,  
2 please, at paragraph eight of the verified complaint,  
3 and then at paragraph eight of your verified amended  
4 answer.

5 Take a second just to look them over,  
6 because the next series of questions arise from those  
7 allegations and that response.

8 THE WITNESS: (Complying)

9  
10 (Pause in proceedings.)

11  
12 Q BY MR. DRESCHER: Have you had a chance  
13 to look both of those paragraphs over?

14 A Yes, I have.

15 MR. DRESCHER: Mr. Parker, have you?

16 MR. PARKER: Am I under oath?

17 MR. DRESCHER: I'm just trying to be  
18 courteous. I apologize. I won't make that mistake  
19 again.

20 MR. PARKER: If I'm not ready I'll let  
21 you know.

22 Q BY MR. DRESCHER: Paragraph eight, Mr.  
23 Yanny, does list particular cases with the allegation  
24 that you "formerly represented and appeared as counsel  
25 of record for plaintiffs."

1 Is it primarily accurate to say one or  
2 more of the plaintiffs?

3 A It's probably more accurate to say it as  
4 you said it first.

5 Q If you look at page four, line five of  
6 the complaint?

7 A (Complying)

8 Yes, sir.

9 Q Right after the parenthetical "RTC v.  
10 Scott." (Indicating)

11 Did you appear as counsel of record for  
12 any of the plaintiffs in that case?

13 Why don't I rephrase that?

14 Did you ever appear as counsel of record  
15 for any of the plaintiffs in this case, in the Elmira  
16 Mission case?

17 A I made an appearance in that case, as you  
18 refer to it, which is the "Church of Scientology  
19 International, et al., versus Elmira Mission of the  
20 Church of Scientology, et al.," in the Western  
21 District of New York.

22 I'm not so sure of the case number, and I  
23 don't believe there was any differentiation as to  
24 counsel. We all appeared for the same ball of wax.

25 Q Including you?

9           1           A           Including me.

2           Q           As to the next case there, "Church of  
3           Scientology of California versus David Jordan, et  
4           al." -- and I'm not going to hold you to the case  
5           number -- it seems to be only the Scott and  
6           Wollersheim case numbers you remembered?

7           A           It's ingrained.

8           Q           Did you make an appearance for the Church  
9           of Scientology of California in the Jordan case?

10          A           My office was involved in that case. And  
11          I'm sure I made an appearance at one point in time.

12          Q           As counsel of record for Church of  
13          Scientology of California?

14          A           Yes.

15          Q           In the next case, which is "Clay Eberle,  
16          et al., versus Church of Scientology of California,"  
17          again, I'm not going to hold you to the case number --

18          A           Thank you.

19          Q           -- did you enter an appearance as counsel  
20          of record for the Church of Scientology California in  
21          that case?

22          A           Yes.

23          Q           Mr. Yanny, you held once a title, post,  
24          however you want to characterize it, of coordinating  
25          attorney for Religious Technology Center, did you not?

9           1           A           Yes, I did.

2           Q           For approximately how long?

3           A           I think officially 1985 through the end  
4 of '85. Towards the end of '85.

5                       Although the functions in some respects  
6 continued thereafter without any titles being listed  
10 7 on the distribution list, just various attorneys were  
8 copied on things including Earle Cooley, myself, John  
9 Peterson, Hertzberg, Leiberman.

10                      MR. DRESCHER: I move to strike  
11 everything after the acknowledgment that he did have  
12 that title for another period of time.

13                      THE REFEREE: He either has --

14                      The only way I'll restrict the answer,  
15 just say along with some other people. That's his  
16 answer so far.

17                      MR. DRESCHER: With respect, I believe  
18 Your Honor misunderstood the answer.

19           Q           BY MR. DRESCHER: Mr. Cooley or Hertzberg  
20 or Leiberman, to your knowledge, never held the title  
21 coordinating counsel, did they?

22           A           I think they actually did at one point in  
23 time, but for --

24                      The fact of the matter is there became a  
25 little cadre of people that coordinated all activities

10           1       of the organization and litigation involving the  
2           2       organization or involving third party litigations in  
3           3       which the organization had an interest. That included  
4           4       for-profit and not-for-profit.

5           Q       Mr. Yanny, this is my recollection of  
6           6       your trial testimony from the Yanny case. If you  
7           7       disagree with this one simple fact, please say so.

8                    It's my recollection that you testified  
9           9       that you represented various of the Churches;  
10          10       Religious Technology Center, CSI, and others from a  
11          11       period 1983 until the end of 1987, is that accurate to  
12          12       your opinion?

13                   MR. PARKER: I object.

14                   The witness should not be required to  
15          15       characterize previous testimony. There is no point in  
16          16       characterizing it or playing memory games for the  
17          17       witness.

18                   MR. DRESCHER: It's not a memory game.

19                   THE REFEREE: The objection is overruled.

20           Q       BY MR. DRESCHER: I'll give it to you  
21          21       more straightforward.

22                   From sometime in 1983 until sometime near  
23          23       the end of 1987, it's true is it not, that you  
24          24       represented various entities associated with the  
25          25       Church of Scientology, including those we have named

10 1 today so far: Religious Technology Center, Church of  
2 Scientology International, Church of Scientology  
3 California, and others that you listed before?

4 MR. PARKER: I object to the form of the  
5 question as compound.

6 THE REFEREE: It's gotten pretty  
7 compound.

8 A (No response)

9 Q BY MR. DRESCHER: From 1983 to 1987 did  
10 you represent one or more Church entities?

11 A I'm not so sure of the beginning year.  
12 I'd have to check.

13 But between at least '84 and '87 I  
14 represented various Scientology organizations which  
15 I'll refer to as "the organization."

16 MR. DRESCHER: That's fine. I just  
17 wanted to have our time frame down.

18 Q BY MR. DRESCHER: During that time frame,  
19 within those bounds ending in 1987 --

20 A I'd like to clarify one earlier answer.

21 You asked me when I represented Hubbard.  
22 I was also consulted in the latter part of December  
23 1985, early '86, regarding an ongoing IRS Criminal  
24 Investigation Division investigation that was going  
25 down that intelligence reports that the organization

10           1       had indicated was going to result in indictments,  
2           2       imminent indictments unless, quote, "the old man  
3           3       dropped dead," end quote.

4                       Insofar as that consultation with  
5           5       Hubbard, I'm sure I was consulted on that as well.

6                       I didn't mean to interrupt.

7           Q       Did any indictments come forward out of  
8           8       that?

9           A       No, Hubbard died for tax reasons.

10          Q       On what do you base that statement Mr.  
11          Yanny, what facts that Mr. Hubbard died for tax  
12          reasons?

13                      MR. PARKER: I think we're getting a  
14          little far afield.

15                      If he wants to open the door we're happy  
16          to march through.

17                      THE REFEREE: It's hard for me to know  
18          where this should start and stop. He did say this,  
19          and we'll see where it leads us.

20          Q       BY MR. DRESCHER: On what facts of your  
21          personal knowledge do you know that Mr. Hubbard died  
22          for tax reasons?

23          A       Can I get a cup of coffee for this?

24                      MR. DRESCHER: I don't really want to  
25          stop. Enough time has been wasted.

10

1

MR. DRESCHER: If it's going to cause a delay, let's move. I withdraw the question.

3

THE WITNESS: Let's forget the coffee.

4

Q

BY MR. DRESCHER: What were your duties for Religious Technology Center during the time you held the title of coordinating counsel, in your own words.

8

This is what you have been waiting for.

9

A

I was to coordinate primarily a litigation involving the organization that dealt with intellectual property matters for the most part.

12

And inevitably any dispute that Scientology got into where it was a plaintiff or defendant, involved allegations of, justifiable allegations of tax fraud, fraud on the courts, obstruction of justice, emotional distress -- not often enough -- invasion of privacy.

18

And so peripherally I would get involved in some of those matters only insofar as they impacted or effected my primary duty, which was involved with the protection of the intellectual property interests of the organization. Both on the for-profit and not-for-profit level. Although I was technically RTC's coordinating counsel and other people were coordinating counsel for other of the tentacles of the

25

11 1 organization.

2 I oftentimes did work funded by Religious  
3 Technology Center that was intended for use by various  
4 for-profit organizations such as Bridge Publications,  
5 Author Services Incorporated.

6 I also did work that involved and  
7 impacted Hubbard's personal interests and intellectual  
8 properties that were either assigned and/or  
9 licensed -- and that became a matter of dispute from  
10 time-to-time -- to various of the organizations.

11 I also was involved -- the litany of what  
12 I did is -- I also helped the organization in some  
13 respects control overseas operations through the "IG  
14 Network" as it was referred to -- Inspector General  
15 Network -- which was involved with the for-profit  
16 organization, Author Services Incorporated, and  
17 operated through Bridge Publications, Religious  
18 Technology Center, IG Network, internationally for the  
19 transfer of funds and the licensing of the use of  
20 various of the intellectual properties.

21 Although I was involved in many of the  
22 peripheral aspects my primary responsibility was  
23 basically to supervise the people that knew the  
24 particular expert, or had particular expertise with  
25 respect to individual types of torts and business

11 1 matters, but to always keep an eye on the intellectual  
2 property aspect and make sure that the right-hand knew  
3 what the left-hand was doing insofar as that is  
4 concerned. That involved supervising the legal work  
5 of local counsel and foreign counsel in those matters.

6 Now can I get a cup of coffee?

7 MR. DRESCHER: Sure.

8 THE REFEREE: We'll take about a five  
9 minute recess at this time.

10

11 (Recess taken 11:23 a.m. to 11:32  
12 a.m.)

13

14 MR. DRESCHER: Are we all set Mr. Yanny?  
15 Ready to continue?

16 MR. PARKER: We're ready.

17 MR. DRESCHER: Thank you.

18 Q BY MR. DRESCHER: You've given us a  
19 lengthy description of your responsibilities as lawyer  
20 for various of the Church entities?

21 A For the organization.

22 Q Would you say that that could be fairly  
23 characterized as controlling and overseeing all of the  
24 litigation that involves Scientology anyplace in the  
25 world?

1 MR. PARKER: Objection, compound.

2 Also ambiguous. I don't know what you  
3 mean by "controlling."

4 MR. DRESCHER: If it helps Your Honor,  
5 I'm quoting Mr. Yanny's testimony before Judge  
6 Cardenas at trial.

7 MR. PARKER: I object on the additional  
8 grounds it's been asked and answered.

9 THE REFEREE: I think it's an  
10 understandable question.

11 THE WITNESS: Can I hear it back?

12

13 (The record was read as follows:

14 Q Would you say that that  
15 could be fairly characterized as  
16 controlling and overseeing all of the  
17 litigation that involves Scientology  
18 anyplace in the world?)

19

20 A I wouldn't want to say what's a fair  
21 charactersation or not.

22 Q BY MR. DRESCHER: Is it accurate?

23 A Insofar as overseeing is concerned, yes.

24 Controlling? Since I gave that testimony  
25 I've had time to think about that. Controlling, I

11        1        certainly didn't really control the litigation. It's  
2        2        a little too esoteric of an issue for me to grapple  
3        3        with.

4                    I certainly coordinated efforts of  
5        5        various counsel and various of the parties.

6                Q        In all matter of litigation?

7                A        Mostly insofar as it impacted  
8        8        intellectual property. I can give you an example.

9                Q        No.

10                    I wondered if it was something besides  
11        11        intellectual property because you listed other types  
12        12        of claims in your answer to the question.

13                A        I'll give you an example.

14                    The Christopherson case, the one that  
15        15        resulted in the 39 million dollar verdict up there in  
16        16        Portland, that didn't involve anything that I  
17        17        controlled.

18                    I was brought in and had to brief myself  
19        19        as to the issues that were involved with some of the  
20        20        intellectual property rights. The matters involved  
21        21        the upper level materials, the Wollersheim -- I  
22        22        couldn't even tell you what he was suing for. The one  
23        23        that was in front of Judge Swairinger.

24                    But I know it involved in some way the  
25        25        upper level materials and the property and means of

11       1       controlling access to those matters are public  
12       2       availability, and public record was one of the jobs  
13       3       that I involved myself with on behalf of your present  
14       4       client, my former clients; the organization. When  
15       5       those kind of issues came up I got drawn in.

12       6               There was a civil rights case at one  
13       7       point in time that got filed in federal court  
14       8       involving the ongoing state court, Wollersheim case,  
15       9       and insofar as that impacted on some of the upper  
16       10      level materials or intellectual property rights, I was  
17       11      brought in. Particularly after there was trouble with  
18       12      the other counsel of record in the case I was brought  
19       13      in to try to clean up the matter.

20       14             Q       So it's "oversee" you don't have a  
21       15      problem with as you've described in your answer, but  
22       16      "control" you would take issue with?

23       17             A       "Control," upon reflection I think  
24       18      coordinate might be more important, might be more  
25       19      accurate.

26       20             And insofar as familiarizing myself to  
27       21      some degree with, at least necessary issues of the  
28       22      case, to permit me to do that, yes.

29       23             Q       And the 39 million dollar verdict you  
30       24      referred to in the Christopherson case, that's the  
31       25      verdict that led to a declaration of mistrial after

1 the verdict was rendered by the jury, is that the one  
2 you're talking about?

3 A I have no idea.

4 Q There is also the 30 million dollar case?

5 A That was the Wollersheim.

6 Q That was the one vacated by the Supreme  
7 Court?

8 MR. PARKER: That's not what the Supreme  
9 Court did.

10 A Only to see if it should be jacked back  
11 up to whatever it was reduced by the court of appeals.

12 Q BY MR. DRESCHER: Or thrown out  
13 altogether?

14 MR. PARKER: He's speaking of an order,  
15 Your Honor, that was issued by the United States  
16 Supreme Court within the last 12 months, and he wants  
17 to debate the meaning of the order which --

18 THE WITNESS: I was in Washington when  
19 they did that by the way.

20 Part of a conspiracy --

21 Q BY MR. DRESCHER: Do you remember any of  
22 the claims in the Christopherson case?

23 A Not as I sit here today.

24 Q Is it accurate to say, Mr. Yanny, that  
25 you also oversaw the administrative side, what they

1 call the "transactional side" of their legal business  
2 where they enter agreements with franchises or mission  
3 holders depending on where they are located?

4 Is that accurate in describing your  
5 responsibilities?

6 A Can I hear that back?

7 MR. DRESCHER: I'm going to repeat it.

8 THE REFEREE: This is a substitute  
9 question.

10 Q BY MR. DRESCHER: Is it accurate that you  
11 also oversaw the administrative side, what they call  
12 the "transactional side" of their legal business where  
13 they enter agreements with franchisees or mission  
14 holders depending where they were located?

15 A My English wasn't the best at the time.

16 I probably gave that quote, but I did  
17 oversee the transactional side of intellectual  
18 property licensing and actually securing the documents  
19 which raised presumptions in favor of the holder in  
20 evidentiary matters such as registrations for  
21 copyrights, such as registrations for trademarks.

22 I believe there was even some patent  
23 matters for L. Ron Hubbard regarding E-Meters that I  
24 had dealt with.

25 I hope that clarifies.

12

1 Q Was that an accurate characterization?

2 A I'm not going to say whether it's  
3 accurate. I'm either misquoted in the transcript or I  
4 misspoke.

5 Q Is it also accurate that you, was also  
6 too, if there were any flaps as they were called, any  
7 problems that arose, you were usually briefed on what  
8 the problem was, what was expected, and asked for  
9 solutions to those types of events, is that accurate?

10 MR. PARKER: Objection, it's ambiguous.  
11 I can't tell from the question what matters he has  
12 referenced.

13 A (No response)

14 Q BY MR. DRESCHER: Do you have the same  
15 problem?

16 A I don't know if I have the same problem.  
17 I can explain to you.

18 MR. DRESCHER: I withdraw.

19 Q BY MR. DRESCHER: Mr. Yanny, do you  
20 recall last summer having an encounter with Kendrick  
21 Moxon at the United States District Courthouse,  
22 downtown?

23 A Can you be more specific?

24 Q Sure.

25 Do you recall a time this past summer in

1 which you and Gerald Armstrong and Mr. Moxon came  
2 together in the file room of the United States  
3 District Court for the Central District of California?

4 A Yes.

5 Q Do you recall whether it was around or  
6 about July 15 of last year?

7 A I don't remember the exact date, but that  
8 would sound like about the time frame.

9 Q About what time of day was it, do you  
10 recall?

11 A No, I really don't. Obviously the  
12 courthouse was open.

13 Q How long did you and Mr. Moxon and Mr.  
14 Armstrong stay together on that encounter, how long  
15 was it?

16 A There are actually a couple times.

17 Q Take the first one, the one in the file  
18 room?

19 A The first one was not in the file room.

20 Q Where was it?

21 A It was in the hallway outside the file  
22 room.

23 Q The three of you were present? You, Mr.  
24 Armstrong and Mr. Moxon?

25 A That could be argued.

12 1 But the person I have come to recognize  
2 as Kendrick Moxon was there, yes.

13 3 Q Was anybody else with Mr. Moxon at the  
4 time?

5 A Not that I recall.

6 Of course you can never tell who is  
7 tailing who.

8 Q Did you and Mr. Moxon engage in any  
9 conversation when you encountered each other in the  
10 hall outside there?

11 A Yes.

12 Q How long did that conversation last?

13 A Very briefly.

14 Q Less than a minute?

15 A I'm terrible at those kind of things. I  
16 have a tough time doing isometrics because of it.

17 Q It was very briefly?

18 A Briefly.

19 Q Do you recall in that particular  
20 encounter what was said by you, if anything?

21 A As I sit here today, I don't.

22 Q Do you recall in that first encounter  
23 what, if anything, was said by Mr. Moxon?

24 A Yes.

25 Q What did he say?

13

1           A           He looked at Jerry, I do recall. He  
2           said, "oh, you two are together." Referring to me.

3                       And the rest of his comments were  
4           basically directed at Jerry Armstrong.

5           Q           What were the rest of his comments?

6           A           He asked, he looked at Jerry Armstrong  
7           and said "do you recognize me?"

8           Q           Did Mr. Armstrong respond to that?

9           A           Yes.

10          Q           What did he say?

11          A           He said "yes, you're the indicted  
12          co-conspirator in the case of U.S. v. Hubbard that was  
13          talked about in the stipulation of evidence. And the  
14          man that provided the false handwriting exemplars to  
15          the government during that investigation."

16          Q           He said all that when Moxon asked if he  
17          knew who he was?

18          A           That's what I said, didn't I?

19          Q           That's what you said, but it took you 22  
20          seconds to say it?

21          A           Jerry's a faster talker than I am, I'm  
22          from West Virginia.

23          Q           What, if anything, did Mr. Moxon respond  
24          to that?

25          A           Moxon was a little taken back by that.

13           1       And if I recall --

2                       As I sit here I don't recall what exactly  
3       Moxon said, if anything, after that.

4               Q       Did you say anything during that first  
5       brief encounter with Mr. Moxon?

6               A       I don't know. I don't recall if I said  
7       anything.

8               Q       Do you recall anything else Mr. Armstrong  
9       said?

10              A       During that first encounter?

11              Q       Yes.

12              A       It makes it easier if you let me finish  
13       my answer before you --

14                       As I sit here today I can't recall.

15              Q       Do you remember anything else Mr. Moxon  
16       said during that encounter?

17              A       As I sit here today, no.

18              Q       What happened next, did you guys go your  
19       separate ways at that point?

20              A       Moxon walked down the hall and I walked  
21       back into the file room where I was reviewing a case  
22       called "J.J. Gaw Investigations Inc.," case number  
23       91-2107 (JSL), U.S. District Court, Central District  
24       of California, involving a case made by the Church  
25       investigator against the United States Government to

13 1 quash subpoenas regarding laundering of money to  
2 individual investigators who had done various and  
3 nefarious deeds including putting dead animals on the  
4 doorsteps of federal agents during the course of  
5 Scientology investigations, making phone calls to the  
6 homes of various federal agents during ongoing federal  
7 investigations of the organization, Scientology.

8 Moxon then came back to see what we were  
9 reviewing.

10 Q Mr. Armstrong was with you then,  
11 reviewing that Gaw file?

12 A Yes.

13 Q What did Moxon do or say, if anything,  
14 when he came back?

15 A He came back up and tried to make small  
16 talk about something of the druthers which was  
17 obviously unimportant, but he was trying to get some  
18 points on incidences and associations. And obviously  
19 wanted to find out what we were reading, so he had to  
20 peer over our shoulders.

21 I basically had shown the file to Jerry  
22 Armstrong.

23 Q How long between the time Mr. Moxon left  
24 you guys in the hall and when he re-joined you around  
25 the Gaw file?

1 A Say that again.

2 Q About how much time passed between the  
3 time Moxon walked up the hall and left you two there  
4 and rejoined you in the file room looking at the Gaw  
5 file?

6 A Briefly.

7 He had obviously walked down the hall and  
8 realized once an association of that kind had been  
9 made he had to investigate it further or else he would  
10 be RPF'd.

11 Q The second encounter, Mr. Armstrong --  
12 And you were looking at this "J.J. Gaw  
13 Investigations Inc. versus United States," 91-2107  
14 (JSL)?

15 You were doing that when Mr. Moxon  
16 returned, is that correct?

17 A I think that's a fair characterization.

18 Q Why were you looking at the case file?

19 A 'Cause it's a public record and I like to  
20 read those kind of things.

21 Q Did you make a special trip to the  
22 federal courthouse to do that?

23 A No.

24 Q You were going to the federal courthouse  
25 for other reasons then that day?

1 A Yes.

2 Q How were you dressed?

3 A I don't recall.

4 Q Business suit?

5 A I just said I don't recall.

6 Q Okay.

7 How did you find out about "J.J. Gaw  
8 Investigations Inc. versus United States?" How did  
9 you find out there was such a case?

10 MR. PARKER: This is a little far afield.  
11 This is part of the pattern, they want to take into  
12 account all these other cases.

13 THE REFEREE: I'll treat this as  
14 preliminary --

15 A I'll claim work product privilege on  
16 that.

17 Q BY MR. DRESCHER: You're invoking the  
18 work product doctrine under federal law or state law?

19 A I don't know. Whichever one does me the  
20 best.

21 MR. DRESCHER: Good answer.

22 THE WITNESS: Thank you.

23 Q BY MR. DRESCHER: For what client?

24 A Potentially myself and/or the Aznarans.  
25 Just to clarify the record, the work

1 product privilege. And I'm exerting it on my own.  
2 I'm not doing it for any clients.

3 Q That's a lawyer's privilege is what  
4 you're telling me?

5 A You got it. Under California or federal.

6 Q I believe that's right.

7 I also believe it involves documents.  
8 What documents are you asserting?

9 MR. PARKER: I object to this line of  
10 questioning.

11 He goes to a public place to review the  
12 file. That's his privilege. He's not accused of  
13 wrongdoing for having looked at a public record.

14 MR. DRESCHER: That's not true.

15 THE REFEREE: I'll sustain the objection  
16 to the last question.

17 Q BY MR. DRESCHER: Did you have a case  
18 number to the Gaw case when you arrived at the file  
19 room to look at that file, Mr. Yanny?

20 A I don't believe so.

21 Q So you just managed to obtain it once you  
22 got there?

23 You did not know the case number? Is  
24 that your recollection of it now?

25 A Can I hear that again?

14 1 THE REFEREE: Did you have the number  
2 when you got there or did you obtain the number after  
3 you got there?

4 A I think I obtained the number after I got  
5 there, from microfiche actually. I don't recall  
6 exactly.

7 Q BY MR. DRESCHER: Did you ever have any  
8 discussion about the file that Mr. Moxon observed you  
9 and Mr. Armstrong reviewing with anyone by the name of  
10 W-a-l-s-h?

11 A I don't recall.

12 Q Do you know the name, Stephen Walsh?

13 A Yes.

14 Q Who is Stephen Walsh?

15 A Stephen Walsh is, my understanding, is an  
16 internal security man with the Department of Treasury.

17 Q You have had discussions on various  
18 topics with Mr. Walsh over the years, have you not?

19 MR. PARKER: Objection, his conversation  
20 with government officials has nothing whatsoever to do  
21 with this lawsuit. He's not being accused of wrongful  
22 conduct in connection with --

23 Q BY MR. DRESCHER: Mr. Yanny, in  
24 describing the Gaw file you made reference to some  
25 very specific things that to my understanding are not

1 in the Gaw file. And I would like to be able to try  
2 to ascertain where --

3 THE REFEREE: What's that got to do with  
4 this discovery in this litigation?

5 MR. DRESCHER: The discovery in this  
6 litigation is into Mr. Yanny's fiduciary breaches with  
7 respect to the Aznarans and with respect to Mr.  
8 Armstrong.

9 With respect to Mr. Armstrong, Mr. Yanny  
10 made the claim in the circumstance in which we have  
11 now had a work product assertion. You're looking at  
12 files directly related to an independent contractor  
13 hired by some Church lawyers.

14 He has also in the course of his response  
15 to what the J.J. Gaw case was about made specific  
16 reference to those matters not in that case.

17 THE WITNESS: That's untrue. Read the  
18 file.

19 THE REFEREE: Just --

20 MR. DRESCHER: And I believe we're  
21 entitled to probe the source of those in connection to  
22 Carl Armstrong, and the extent to beyond which this  
23 represents perhaps a further breach of which we're  
24 unaware.

25 MR. PARKER: It is not a subject matter

14 1 of this complaint.

2 He's reviewing public records. He is  
3 privileged to do that. He doesn't even have to have a  
4 reason to do it.

5 THE REFEREE: Objection sustained to this  
6 question.

7 We're going to break for lunch now. It's  
8 five minutes to 12:00. I'll ask you to be back at  
9 five minutes to 1:00 so we can resume and proceed  
10 expeditiously.

11  
12 (At the hour of 12:00 p.m. the,  
13 luncheon recess was taken, the  
14 proceedings to be resumed at 1:00 p.m.)  
15

16 (At the hour of 1:00 p.m.  
17 the following proceedings were had  
18 at the same place with the  
19 same persons present:)  
20

21 THE REFEREE: The Referee will note for  
22 the record that everybody was cooperative in returning  
23 promptly from the lunch hour. I think I was the last  
24 one to arrive. So we'll resume.

25 MR. DRESCHER: Thank you, Your Honor.

1 Q BY MR. DRESCHER: Mr. Yanny, we left off  
2 in the midst of the second of what you have now  
3 identified as three encounters between you and Mr.  
4 Moxon and Mr. Armstrong, sometime last summer at the  
5 federal court house.

6 The second being that which Mr. Moxon  
7 observed you and Mr. Armstrong reviewing the "J.J. Gaw  
8 versus United States" file. Are we up to where we  
9 are? Is that your recollection where we left off?

10 A I don't recall where we left off.

11 Q It's mine, so let's proceed from that  
12 point.

13 During that encounter in which you three,  
14 again, were in the same place around the Gaw file,  
15 what, if anything, was said by Mr. Moxon?

16 A To the best of my current recollection he  
17 asked about some kind of stipulation or something.

18 I really can't remember. I'd have to  
19 reflect on that a little bit. He made some small talk  
20 about some kind of stipulation or something.

21 Q You don't remember what kind of  
22 stipulation or what specific --

23 A No. I believe it had something to do  
24 with a pending suit.

25 Q What, if anything, did Mr. Armstrong say

15           1       at that time?

2           A       To the best of my current recollection I  
3       don't recall Jerry saying anything at that time.

4           Q       What, if anything, did you say?

5           A       To the best of my current recollection, I  
6       don't recall.

7                   I must have made small talk back with  
8       Moxon and made some comment back, you know, to the  
9       effect you should read this file maybe. Interesting  
10      file.

11          Q       Being the Gaw file?

12          A       Exactly.

13          Q       How long was Mr. Moxon with you at the  
14      Gaw file?

15          A       Like --

16                   Again, I'm terrible at those kinds of  
17      estimations. I wouldn't want to guess.

18                   It wasn't very long.

19          Q       Who told you about the existence of the  
20      Gaw file?

21          A       I don't think that anybody did.

22          Q       How did you know it existed?

23          A       I came across it on microfiche I believe.

24          Q       Just randomly looking at maybe  
25      microfiche?

15

16

1           A           I was looking for something else  
2 actually.

3                   MR. PARKER: Your Honor, that's not  
4 relevant to this case, what he was doing.

5                   MR. DRESCHER: It is because the presence  
6 of Mr. Yanny and Mr. Armstrong around a Church file in  
7 a situation in which I will tell you Mr. Moxon has  
8 submitted declarations that it was pretty much an al  
9 fosso gastrong (phonetic). When he asked if Mr. Yanny  
10 was representing Armstrong, Mr. Yanny said yes and Mr.  
11 Armstrong said no.

12                   And to the extent that Mr. Yanny was  
13 aserting a work product privilege to something similar  
14 to this question earlier, this is clearly not an  
15 impression or conclusion or a judgment reached by a  
16 lawyer, it is how Mr. Yanny was even aware of the  
17 thousands of cases that there even was such a file.  
18 It's directly pertinent to this inquiry of Mr.  
19 Armstrong's relationship.

20                   MR. PARKER: The same kind of question we  
21 talked about before.

22                   THE REFEREE: I'm going to sustain the  
23 objection.

24                   I really can't see that this could lead  
25 to anything relevant in this particular litigation.

1 MR. DRESCHER: Your Honor, we have here a  
2 situation, I think -- if I can just re-argue this?

3 THE REFEREE: Go ahead.

4 MR. DRESCHER: I think Your Honor can  
5 certainly draw his own conclusions from the testimony  
6 that Your Honor has already heard.

7 And I believe Your Honor is aware from  
8 the matters that have been filed before you that this  
9 is not the first such case, this is not the first such  
10 preliminary injunction. And indeed, Mr. Yanny has  
11 given a pattern of breaching his fiduciary nature.

12 This is a man who is out to hurt his  
13 clients. That goes to pattern and practice, that goes  
14 to the issue of punitive damages, because indeed the  
15 specific allegations of paragraphs 28 and 36 of the  
16 complaint that Mr. Yanny has "undertaken conduct with  
17 respect to Armstrong and the Aznarans for the express  
18 purpose of injuring his former clients," and it goes  
19 to the extent of the fiduciary breaches which are all  
20 part of that pattern and practice.

21 In that regard Mr. Yanny has made it  
22 clear, through testimony, through declarations and  
23 through other evidence throughout all of these  
24 proceedings that he has at his heart the interests of  
25 injuring his former clients. And that involves going

1 to the Internal Revenue Service. We have testimony  
2 that he has done so, not from Mr. Yanny except to the  
3 extent Mr. Walsh from the Treasury Department has been  
4 in communication with Al Lipkin of the Criminal  
5 Investigation Division and with collection agents such  
6 as Sandra Baker. And we are entitled to probe that  
7 because this matter of Armstrong and the Aznarans is  
8 simply a manifestation of a broader breach. If it is  
9 we should be able to show the pattern and practice.

10 MR. PARKER: We'll be here all day, not  
11 only if we argue at length before, but after Your  
12 Honor rules.

13 My client is not being sued for  
14 cooperating with the government. Not that it's true.  
15 Not that if it were a sin if it were true. We're  
16 going to trial on April 27th on this complaint.

17 You would think, judging from Mr.  
18 Drescher's comments, that his client was somehow a  
19 part of the J.J. Gaw case.

20 THE REFEREE: Thank you folks.

21 I believe I have some understanding of  
22 the thrust of what plaintiff is seeking here. I have  
23 some idea of what Mr. Yanny has said in his responsive  
24 papers. And I'm certainly in agreement that it's  
25 appropriate to have a referee at the taking of the

16           1       deposition.

2                       I do not see that it's useful or  
3       appropriate to require a response to that question,  
4       Mr. Drescher. So let's go to another question.

5               Q       BY MR. DRESCHER: I will Your Honor.

6                       Apart from whether you have already told  
7       us, Mr. Yanny, during that second encounter with Mr.  
8       Moxon, in Mr. Armstrong's presence at the courthouse,  
9       what, if anything else, was said by anybody?

10              A       I don't have a recollection of anything  
11       else being said.

12              Q       Did someone leave the room?

13              A       Yeah, Moxon left.

14              Q       Do you know where he went?

15              A       Yes.

16              Q       How do you know where he went?

17              A       Because I observed him.

18              Q       Where did he go?

19              A       To the telephone.

20              Q       Did you listen to Mr. Moxon's telephone  
21       conversation?

22              A       It was a public telephone in the, near  
23       the Main Street exit of the entrance to the federal  
24       courthouse there at 312 North Spring on the Main  
25       Street side of things.

1 I left, returned the file, went walking  
2 out, watched Moxon. I walked over and got in line  
3 just like everybody else behind him, waiting for the  
4 telephone. And it just happened to be at the  
5 telephone that Moxon was talking on.

6 When he observed me standing behind him  
7 he immediately terminated the conversation and  
8 proceeded to walk upstairs to the Spring Street level  
9 of the Federal Court House.

10 I gave him a few minutes, knowing full  
11 well where the telephones are upstairs. And I then  
12 out of curiosity walked up to see what Mr. Moxon was  
13 doing. And low and behold my prediction was right, he  
14 was up there on the telephone upstairs.

15 And he noted me, terminated his phone  
16 call. And I said, "the one downstairs one didn't  
17 work, I guess." Of course it worked just fine.

18 Then Moxon left.

19 Q The question was did you overhear any  
20 part of Mr. Moxon's phone call?

21 A Just saying goodbye.

22 Q And nothing else?

23 A No, not as I recall.

24 Q How many people were on line with you  
25 while Mr. Moxon was with you?

17

1 MR. PARKER: In line or on line?

2 MR. DRESCHER: I'm from the east, it's on  
3 line.

4 THE REFEREE: Was anybody standing  
5 between you and Mr. Moxon when he was on the  
6 telephone?

7 A No.

8 Q BY MR. DRESCHER: Then did you and Mr.  
9 Moxon have any other communication between you at the  
10 courthouse that day?

11 A No.

12 Q Did Mr. Armstrong accompany you as you  
13 followed Moxon from phone to phone?

14 A I don't recall currently.

15 Q That was the end of your encounters with  
16 Mr. Moxon on the day in which he spotted you and Mr.  
17 Armstrong together at the courthouse, is that right?

18 A I may have seen him a little later that  
19 day walking across Spring Street, back from the, where  
20 that little plaza is there where they have all those  
21 fast food outlets that I'm sure you don't eat at.

22 MR. DRESCHER: Look at me Joe, I eat at  
23 them.

24 A I think he walked across the street later  
25 that day.

1 Q BY MR. DRESCHER: How long were you and  
2 Mr. Armstrong at the courthouse in toto?

3 A I don't know. I wouldn't want to guess.

4 Q Do you have any idea?

5 A That's what I just said.

6 Q To whom did you describe the events of  
7 that day with Mr. Moxon, other than to me right now?

8 MR. PARKER: I'm sorry. I'm confused  
9 about the time frame.

10 Q BY MR. DRESCHER: Any time after that  
11 day, to whom, if anyone, did you describe the events  
12 of that day at the courthouse?

13 MR. PARKER: I object Your Honor, the  
14 question is broad enough to include conversations with  
15 me.

16 THE REFEREE: Sustained as to form.

17 Q BY MR. DRESCHER: Apart from your  
18 lawyers, to whom did you describe your encounters with  
19 Mr. Moxon on that day?

20 A At present, I don't recall.

21 Q Do you recall describing them to anyone  
22 other than to your lawyers?

23 A As I sit here today?

24 No.

25 Q You never discussed it with the Aznarans?

1           A           I just got done saying as I sit here  
2 today I don't recall.

3           Q           And I asked you do you recall -- trying  
4 to jog your memory -- whether you discussed it with  
5 either Aznaran?

6           A           As I told you before, as I sit here  
7 today, I don't recall.

8           Q           You don't recall ever having discussed it  
9 with anyone else?

10                   MR. PARKER: Asked and answered.

11                   THE REFEREE: That's the state of the  
12 testimony.

13           Q           BY MR. DRESCHER: Mr. Yanny, in December  
14 of 1991 you intervened in a proceeding between Church  
15 of Scientology of California I believe, and Gerald  
16 Armstrong, in Los Angeles Superior Court, did you not?

17           A           I believe there was more than one party  
18 to that intervention. I believe it was Mary Sue  
19 Hubbard.

20                   I believe it was Church of Scientology  
21 California. I believe that various parties were  
22 involved from the organization side of things.

23           Q           They were all involved when you filed  
24 your application for intervention though, weren't  
25 they?

1           A           Probably.

2           Q           And you did apply to intervene in that  
3 case around December 3, 1991, didn't you?

4           A           Yes, I did. I'm not sure of the exact  
5 date.

6           Q           The first week in December?

7           A           There was a motion --

8                       Just to set the record straight, there  
9 was a motion for you all in a star chamber proceeding  
10 to enforce, in a confidential setting, a sealed  
11 record, and behind closed doors, a settlement  
12 agreement, on certain provisions of that settlement  
13 agreement.

14          Q           Mr. Yanny, I asked --

15                       MR. DRESCHER: I'm going to move to  
16 strike as non-responsive, everything that he has said  
17 to that question.

18                       MR. PARKER: Before you repeat the  
19 question let me stake out two objections.

20                       This is another example of inquiring  
21 about litigation that is not related to this case.  
22 And secondly, this relates to conduct that occurred  
23 subsequent to the filing of this lawsuit and  
24 subsequent to the time frame described in the  
25 complaint.

17 1                   No supplemental complaint has been filed  
2       alleging conduct after the preliminary injunction in  
3       any way wrongful, so this is beyond the scope of  
4       discovery in both the temporal sense and discovery  
5       matter.

6                   MR. DRESCHER: In the temporal sense it  
7       is perfectly relevant because Mr. Yanny is subject to  
8       a preliminary injunction. In a substantive section,  
9       387 of the Code of Civil Procedure sets forth the  
10      requirements for an intervention, and perhaps a  
11      foundational question should have been asked before I  
12      launched into this argument.

13                  The simple truth of the matter is in  
14      order to intervene, the person who seeks to intervene  
15      must have an interest in the litigation, the subject  
16      matter of the litigation, or in the success of either  
17      of the parties, or an interest against both of the  
18      parties.

19                  And an intervention can only take place  
20      when a third party is permitted to become a party to  
21      the action or proceeding, either by joining the  
22      plaintiffs or by uniting with the defendants and  
23      resisting what the plaintiff seeks or by making  
24      demands adverse to both the plaintiff and defendant.  
25      I believe Your Honor has seen the preliminary

1 injunction in this case.

2 THE REFEREE: I think I did.

3 MR. DRESCHER: But in paragraph 1-D of  
4 that Judge Cardenas hastened to add that "Yanny shall  
5 not represent Armstrong directly or indirectly in any  
6 legal proceeding against plaintiff's without  
7 plaintiff's prior written consent or further court  
8 order."

9 Whether it's viewed as a violation of the  
10 preliminary injunction, which certainly is relevant in  
11 the discovery proceeding, or whether it is viewed as  
12 simply an extension of ongoing breaches of fiduciary  
13 duty between Mr. Yanny, with Mr. Yanny with respect to  
14 Mr. Armstrong, his intervention into that case --  
15 which by the way was allowed in that case -- and a  
16 subsequent effort now ongoing to intervene on behalf  
17 of Mr. Armstrong's positions in another case, are  
18 certainly relevant to the issue of his ongoing  
19 breaches, and also with respect to the preliminary  
20 injunction issued in this case. I think we're  
21 entitled to explore into those areas.

22 MR. PARKER: If he violated the  
23 injunction three and a half months ago I'm sure Mr.  
24 Drescher would have brought that to Judge Cardenas'  
25 contention. And that would have been one of the main

18           1       arguments they would have made to his successful  
2           2       invention.

3                       This is not relevant to this case.

4                       MR. DRESCHER: The proceeding was  
5       dismissed on jurisdictional bases as to the claim  
6       between the Churches and Mr. Armstrong.

7                       THE REFEREE: Thank you folks.

8                       Generally speaking, I do not sustain the  
9       objection. I do not have in mind what the actual  
10      question is that elicited all of this.

11                      MR. DRESCHER: I'll tell you the truth, I  
12      don't remember the exact point.

13                      THE REFEREE: Let's ask another question.

14                      Q       BY MR. DRESCHER: In seeking to intervene  
15      in the proceeding brought against Mr. Armstrong in  
16      December of 1991, on what basis did you seek that  
17      entry?

18                      MR. PARKER: Your Honor, it is a matter  
19      of record the basis on which the action was brought.  
20      That's why we're not litigating that lawsuit here.

21                      That was presented to a court of  
22      competent jurisdiction, who ruled in my client's  
23      favor. Why are we going into what the public record  
24      holds?

25                      MR. DRESCHER: It's not a matter of

1 public record.

2 I'm asking Mr. Yanny specific questions  
3 concerning whether he viewed himself as a person who  
4 was interested in the success of Mr. Armstrong's  
5 case --

6 By the way, on the record during the  
7 hearing before the court ever addressed Mr. Yanny's  
8 intervention there was a lengthy, most of the day  
9 hearing on the subject matter of the actual proceeding  
10 to which Mr. Yanny sought to intervene, in which Mr.  
11 Yanny on a number of occasions actually spoke out on  
12 behalf of Mr. Armstrong. The whole thing was  
13 dismissed jurisdictionally.

14 It is going on right now in Marin County  
15 in a separate action. And we're entitled to know if  
16 Mr. Yanny's just trying to use the back door to  
17 continue to represent Mr. Armstrong.

18 THE WITNESS: As counsel in that  
19 particular proceeding -- which is very interesting Mr.  
20 Drescher calls a proceeding since there really was no  
21 complaint to join in or against -- there was an  
22 attempt to enforce a confidential settlement agreement  
23 in which the parties allegedly had conferred  
24 jurisdiction on the court to enforce the proceeding.

25 That agreement never went to the court

18 1 for approval and the court declined jurisdiction on  
2 that basis. There was no separate action filed, so I  
3 could not file a complaint in intervention. The best  
4 I guess I could do is what I'm attempting, to go up  
5 north at present, and that is to intervene for  
6 declaratory judgment that the matter be declared null  
7 and void.

8 In the transcript at the hearing  
9 regarding the issuance of the preliminary  
10 injunction -- and this predates Mr. Parker -- Judge  
11 Cardenas specifically said that I would not be  
12 prevented by the preliminary injunction from gathering  
13 evidence in defense of myself. I would not be  
14 prevented from gathering evidence to further my own  
15 cross-complaint, if any.

16 That I would not be prohibited by the  
17 preliminary injunction from initiating other actions  
18 such as a request to intervene in a proceeding -- not  
19 a lawsuit -- that involved an attempted enforcement of  
20 a contract when no case had been filed by my esteemed  
21 opposition for breach of contract.

22 That was necessary that the pleading  
23 before you, Exhibit 1, alleges that I breached my  
24 fiduciary duties by representing Armstrong in a  
25 particular case, to-wit, the one that the settlement

18 1 agreement with respect to -- you'll excuse the  
19 2 dangling participle -- was attempted to be enforced.

3 I attempted to protect my own ability to  
4 gather evidence, unfettered, in my own defense with  
5 respect to the allegations made against me in Exhibit  
6 1. If these people thought there was a contempt they  
7 would have most certainly brought it up before Judge  
8 Cardenas. To date no motion of that has been made.  
9 The intervention was granted.

10 MR. DRESCHER: And the proceeding was  
11 dismissed. Section 387 A, it was actions or  
12 proceedings. The point being with respect at least to  
13 the December proceeding in front of Judge Geernaert,  
14 he intervened so that the matter be declared null and  
15 void, in other words, on behalf of Armstrong to gather  
16 evidence for this proceeding which is all I'm trying  
17 to do.

18 And if it's relevant for him it's  
19 relevant for us. We're entitled to explore as a  
20 matter of the pattern and practice, the ongoing  
21 breaches and the nature of the fiduciary breaches that  
22 our clients have suffered that is just underlined  
23 every time Mr. Yanny opens his mouth with his  
24 non-responsive answers, with his client bashing. This  
25 is directly because of statutory language relevant to

1 this proceeding.

2 THE REFEREE: I think you can inquire  
3 further into this. We'll see if it amounts to  
4 anything in the long run.

5 Q BY MR. DRESCHER: Mr. Yanny, in making  
6 your intervention in the Los Angeles action between  
7 various Churches and Mr. Armstrong, were you entering  
8 that case to, for any purpose other than to gather  
9 evidence as you say?

10 MR. PARKER: I object on grounds of work  
11 product.

12 At that point in time my client was  
13 between lawyers. I had not yet come in. But Mr. Van  
14 Sickle was on his way out. My client acting for  
15 himself initiated that proceeding to try to pry open  
16 the sealed doors to that file.

17 THE REFEREE: So you're saying he was his  
18 own counsel at that time?

19 MR. PARKER: Right.

20 And they want his mental impressions on  
21 how he was defending himself.

22 MR. DRESCHER: He wasn't defending  
23 himself.

24 He either has to come claiming an  
25 interest sought by the complaint, united with a

1 defendant, or demanding his adversity as to both.

2 Q BY MR. DRESCHER: My question, Mr. Yanny,  
3 is this.

4 Were you in making your intervention in  
5 Los Angeles joining the Churches in the relief they  
6 sought?

7 MR. PARKER: I object on the same  
8 grounds.

9 It's absolutely privileged, his mental  
10 impression.

11 MR. DRESCHER: It's not a mental  
12 impression.

13 MR. PARKER: If he stated it's a matter  
14 of record. If he didn't it's a matter of his mental  
15 impressions.

16 MR. DRESCHER: He didn't state it.

17 A The easy way to do that is to unseal the  
18 file you have sealed, because my statement as to why I  
19 was intervening was already in that file.

20 But don't you want the sauce with the  
21 goose?

22 THE REFEREE: Now gentleman.

23 When you wear two hats you just have to  
24 resolve the questions as they come up.

25 I'll overrule the objection on this

1 particular question.

2 MR. DRESCHER: Thank you.

3 THE REFEREE: If you have it in mind you  
4 should answer it. If you don't have it in mind --

5 MR. PARKER: The question is whether you  
6 were intervening on behalf of the Church?

7 MR. DRESCHER: That's not right.

8 THE REFEREE: That might have been the  
9 last question.

10 The question that I think is appropriate,  
11 if there is one that's appropriate, is what was your  
12 intention in intervention?

13 You said you did it to --

14 MR. DRESCHER: With respect, Your Honor,  
15 that was not my question.

16 THE REFEREE: State your question.

17 I'm glad to say I'm wrong. State your  
18 question.

19 Q BY MR. DRESCHER: I wanted to know  
20 specifically whether in making the intervention in  
21 this effort Mr. Yanny was joining the Church which he  
22 is in claiming what is sought by them in their  
23 proceeding?

24 A Without the papers that you all filed  
25 with respect to that secrecy agreements wherein you

19           1       tried to silence Armstrong from being able to  
2           2       voluntarily assist people, without that I really  
3           3       couldn't make an evaluation at present.

4           Q       Did you want the Church to win the  
5           5       proceeding they brought against Mr. Armstrong?

6           A       What was the proceeding?

7           Q       The preceeding was the enforcement.

8           A       Of the silence provisions?

9           MR. DRESCHER: No, Mr. Yanny, and if you  
10          10       want me to ask the questions I will.

11          THE WITNESS: Go ahead.

12          Q       BY MR. DRESCHER: You intervened in the  
13          13       case, didn't you?

14          A       First of all, in the proceeding. There  
15          15       was no case.

16          Q       Did you want Mr. Armstrong to prevail in  
17          17       that proceeding and -- strike.

18                   By intervening did you support Mr.  
19          19       Armstrong's attempts to defeat the proceeding brought  
20          20       by the Church's counsel?

21          A       By my intervention I sought to preserve  
22          22       my ability to gather evidence unfettered by a secrecy  
20          23       provision of the agreement that you seem to keep  
24          24       sealed in the records of the courthouse down there, so  
25          25       I could gather evidence without undue expense without

20           1       undue burden and without you looking over my shoulder  
          2       while I'm preparing my case. That's all I know how to  
          3       answer you.

          4           Q       In intervening in that case, Mr. Yanny,  
          5       were you seeking to unite yourself with Mr. Armstrong  
          6       in resisting the claims of the plaintiff?

          7           A       No.

          8           MR. PARKER: I object to the question.  
          9       It's harassment.

         10          THE REFEREE: Now he said also, no.

         11          MR. DRESCHER: I'm just going through  
         12       the --

         13          THE REFEREE: I'm not arguing with any of  
         14       you. I'm asking --

         15          You asked a question, it was answered. I  
         16       overruled the objection.

         17          A       I don't know how really to answer your  
         18       question. I was doing what I just said I was seeking  
         19       to do.

         20          Q       BY MR. DRESCHER: Nothing more? Nothing  
         21       less?

         22          A       I take that back, I was also seeking to  
         23       have access to the files. I was seeking to have them  
         24       at least limited unsealed so that I could get access  
         25       to evidence which I needed to defend myself since the

1 complaint specifically says I was counsel of record  
2 for you all on that side of the table in the Armstrong  
3 case.

4 And that also was granted.

5 Q So you were counsel of record for the  
6 Churches in the Armstrong case?

7 A No.

8 MR. DRESCHER: Isn't that what you just  
9 said?

10 MR. DRESCHER: Let me hear it back.

11 THE WITNESS: I said you made the  
12 allegations in the complaint.

13

14 (The record was read as follows:

15 A I take that back, I was  
16 also seeking to have access to the files.  
17 I was seeking to have them at least  
18 limited unsealed so that I could get  
19 access to evidence which I needed to  
20 defend myself since the complaint  
21 specifically says I was counsel of record  
22 for you all on that side of the table in  
23 the Armstrong case.)

24

25 Q BY MR. DRESCHER: Mr. Yanny, you're

1 aware, are you not, that a number of churches have  
2 brought a suit against Mr. Armstrong in Marin County  
3 that's currently pending?

4 A I don't know that there are a number of  
5 Churches represented on your side of the table.

6 There is one organization. You can call  
7 it what you want. I'll call it what I want.

8 Q At least one of your former clients has  
9 initiated a lawsuit against Mr. Armstrong in Marin  
10 County, is that correct?

11 A I am aware that there has been a  
12 proceeding instituted in Marin County against Mr.  
13 Armstrong.

14 Q That is a lawsuit for breach of contract?

15 MR. PARKER: Objection, those pleadings  
16 will speak for themselves.

17 THE REFEREE: I think you can testify as  
18 to your understanding, if you have one, as to what the  
19 suit is about.

20 A I don't currently, as I sit here, have  
21 any understanding except what that suit is about  
22 except you're trying to silence one more time.

23 Q BY MR. DRESCHER: Have you made an effort  
24 to intervene in that suit?

25 MR. PARKER: I am his lawyer and I have

1 filed papers up there, and this lawsuit has nothing to  
2 do with that.

3 A (No response)

4 Q BY MR. DRESCHER: You have had your  
5 attorneys file lawsuit, excuse me, an intervention  
6 motion in the Marin County case in at least one of the  
7 Churches and Mr. Armstrong --

8 A As to what I had my attorneys do and not  
9 do, I believe is privileged.

10 Q You don't have any understanding what the  
11 subject matter of the lawsuit is?

12 A It's my understanding that you're trying  
13 to silence Armstrong regarding the secrecy proceedings  
14 and noncooperation provisions of his settlement  
15 agreement. And that would put an undue burden on my  
16 ability to defend myself in this case.

17 Q Therefore you are seeking to intervene to  
18 defeat the Church's claims against Mr. Armstrong, is  
19 that correct?

20 A I am seeking to have my ability to gather  
21 evidence unfettered by collusive patterns and  
22 practices intended to do nothing but obstruct justice  
23 and promote fraud on the court, so I can defend this  
24 case.

25 Q The collusion, to whom do you refer?

1 MR. PARKER: Let me just object.

2 MR. DRESCHER: Excuse me.

3 MR. PARKER: Your Honor, if we were in  
4 trial I would ask for an offer of proof. And I think  
5 it's appropriate to ask for one.

6 This is a pending proceeding that is  
7 before the court, and it's in Marin County. I have  
8 filed certain papers because my client is being  
9 accused of various actions.

10 It's very clear to me that they're going  
11 to try to drag him into Marin County. But in the  
12 meantime they're seeking a preliminary injunction that  
13 would gag Mr. Armstrong -- who is among the three  
14 critical witnesses in this case -- the Aznarans and  
15 Mr. Armstrong.

16 So we have intervened to try to protect  
17 his ability to give us testimony in this case. In  
18 fact, give testimony next week when he appears before  
19 Your Honor. But none of that has to do with this  
20 lawsuit.

21 MR. DRESCHER: If Mr. Parker would  
22 correctly characterize the provision it would say Mr.  
23 Armstrong shall comply with lawful process.

24 As far as getting any testimony next  
25 week, it's nonsense, he's been subpoenaed.

1                   As far as the rest of the explanation, I  
2                   have just about concluded this line of questioning.  
3                   It is clear Mr. Yanny has expressed what his view is  
4                   and it's also clear what the statute requires and how  
5                   that evidence is judged is how that evidence is  
6                   judged.

7                   I'm not particularly concerned about  
8                   that, but I will ask one or two more questions about  
9                   the Marin County matter Mr. Yanny.

10                  MR. PARKER: I made an objection. I'm  
11                  entitled to a ruling.

12                  THE REFEREE: Have you given up on your  
13                  question?

14                  MR. DRESCHER: No. In fact, there was no  
15                  question pending.

16                  THE REFEREE: I didn't think there was.

17                  MR. PARKER: That's true, there was no  
18                  question pending.

19                  I was trying to do this in an orderly way  
20                  before we got too far down the road.

21                  THE WITNESS: There was a question  
22                  pending. It was what's the collusion.

23                  MR. DRESCHER: No, there wasn't.

24                  Q           BY MR. DRESCHER: Did you discuss with  
25                  Mr. Armstrong the matter of your attempted

1 intervention in the Los Angeles proceeding before you  
2 made such application?

3 MR. PARKER: That calls for a yes or no.

4 A Yes.

5 Q BY MR. DRESCHER: How many occasions?

6 MR. PARKER: Objection, it's irrelevant,  
7 not reasonably calculated to lead to the discovery of  
8 admissible evidence, and violates the attorney-client  
9 and work product and priest-penitent privileges.

10 THE REFEREE: We're just talking about  
11 numbers at the moment. I'll overrule those  
12 objections.

13 A I don't know.

14 Q BY MR. DRESCHER: More than once?

15 A Maybe.

16 Q You did not appear as counsel for Mr.  
17 Armstrong in the proceeding before Judge Geernaert,  
18 did you?

19 A No, I did not.

20 Q You represented only yourself in that  
21 proceeding?

22 A That's right.

23 Q Tell me --

24 A Perhaps my corporation. I don't  
25 remember.

1           Q           I don't either, but it was either  
2           yourself or your corporation?

3           A           I was trying to complete my answer.

4           Q           What did you talk to Mr. Armstrong about  
5           before --

6                   MR. PARKER: I reiterate those same  
7           objections.

8                   THE REFEREE: Let's talk about the scope  
9           of these objections again.

10                   What are your thoughts here Mr. Drescher?

11                   MR. DRESCHER: It's the same as before.  
12           The Statute Section 387-A requires one of several  
13           factors for an intervention. And the factors are very  
14           clear.

15                   The intervener has to either join the  
16           plaintiff in claiming what is sought by the complaint,  
17           unite with the defendant in resisting the claims of  
18           the defendant, or by defending anything adversely to  
19           both. That's the only way that an action or  
20           proceeding will be allowed.

21                   Mr. Yanny testified he did not represent  
22           Mr. Armstrong with respect to those proceedings. Mr.  
23           Yanny has not testified to any motivation other than a  
24           desire to get evidence. It is therefore inconceivable  
25           to me that discussions between Mr. Armstrong and Mr.

1 Yanny concerning his intervention could possibly come  
2 within any sort of privilege and directly relate to  
3 the issue of ongoing fiduciary breaches between Mr.  
4 Yanny and Mr. Armstrong which led to the preliminary  
5 injunction, and which from the suggestion of the Marin  
6 action, continues to this day.

7 MR. PARKER: I would remind the court of  
8 a statement that Mr. Drescher and Ms. Bartilson made  
9 last time I think we were all together and I was  
10 present.

11 And that is my client is not being sued  
12 for breaches of confidentiality in the sense of  
13 disclosing to Armstrong or to the Aznaran's  
14 confidence. We might as well turn the question around  
15 and say how could it possibly be probative of any  
16 material issue in this case?

17 MR. DRESCHER: It begs the issue of Mr.  
18 Yanny's duty of loyalty and the duty to his former  
19 client.

20 More than that, he already testified he  
21 didn't represent Armstrong.

22 MR. PARKER: Your Honor, when a client  
23 sues a lawyer the lawyer is entitled to defend  
24 himself. And that is a matter of statute and case  
25 law.

1                   THE WITNESS: I would also interject  
2                   during those inventions any conversation that you had  
3                   with Armstrong regarding that intervention -- which  
4                   was my participation in a proceeding -- are privileged  
5                   under the work product, both as to that proceeding or  
6                   this one.

7                   THE REFEREE: Mr. Drescher, are you  
8                   seeking to develop some evidence that Mr. Yanny  
9                   behaved improperly in giving information or in seeking  
10                  information?

11                  MR. DRESCHER: We're concerned in this  
12                  action only with the fiduciary breach of the duty of  
13                  loyalty. So therefore we're looking toward giving --  
14                  whatever Mr. Armstrong might have shared with Mr.  
15                  Yanny, if anything, that's not before Judge Cardenas  
16                  in this case.

17                  What we are seeking to show is that the  
18                  breach of his fiduciary duty to his former clients has  
19                  persisted and has persisted with respect to Mr.  
20                  Armstrong, and that the evidence that we're looking  
21                  for right now is relevant because it could lead to the  
22                  admissible evidence concerning ongoing breaches, both  
23                  in and of itself, and in violation of the preliminary  
24                  injunction.

25                  THE WITNESS: I might note for the record

2 1 that insofar as the fact that these people have  
2 brought suit against me gives me the right to defend  
3 myself and to do whatever is necessary to gather the  
4 evidence that I need to defend myself.

5 And that includes, according to the  
6 transcript during the hearing on the preliminary  
7 injunction, the right to institute other proceedings  
8 if I see fit. The propriety. The matter may be res  
9 judicata in that Judge Geernaert has already ruled  
10 that I had the right to intervene.

11 And subject to relevancy rulings by Your  
12 Honor I will have access to those sealed files so I  
13 can adequately defend myself in this case. I would,  
14 for the record, indicate insofar as that is concerned  
15 the matter may be used res judicata.

16 Insofar as they seek to find out what I  
17 said in the gathering of information so that I could  
18 defend myself, it violates my right of work product  
19 privilege.

20 Insofar as they seek to gather  
21 information related to my ability to properly present  
22 a petition for intervention in the Geernaert  
23 proceeding, that matter has already been ruled upon.  
24 It was appropriate for me to intervene at that time.  
25 It was appropriate for me to get access to those

2 1 files. Judge Geernaert has so ruled.

2 Insofar as what I may have said in the  
3 gathering of information necessary to defend myself or  
4 to present that petition, I'm exerting the work  
5 product privilege.

6 MR. DRESCHER: This is one of the most  
7 peculiar and expansive --

8 I wanted to know what was said between  
9 Mr. Yanny and Mr. Armstrong concerning his  
10 intervention in the Los Angeles proceeding.

11 You have already established that there  
12 was no attorney-client relationship between the two at  
13 the time. Mr. Yanny is trying to twist a privilege  
14 that includes conclusions, impressions, judgments and  
15 other arts of the lawyer trade, and try to superimpose  
16 that on a question that's asking for facts.

17 THE REFEREE: I don't think the obtaining  
18 of information in and of itself is included absolutely  
19 in any work product privilege. How you use it, what  
20 you do with it, how you interpret it might well be,  
21 might well get us involved in a work product problem.

22 I don't think the fact that Mr. Yanny may  
23 have asked a question of Mr. Armstrong in itself would  
24 convert something into a work product, but we'll take  
25 those as they come.

2                   1                   So at this time, in this discovery, the  
2                   2                   objection, the work product objection is overruled and  
3                   3                   you should answer the questions as to what your  
4                   4                   conversation was with Mr. Armstrong on this particular  
5                   5                   occasion.

6                   6                   MR. PARKER: Can I inquire, Your Honor,  
7                   7                   because this is going to be very useful to me when I  
8                   8                   take Mr. Drescher's deposition?

9                   9                   THE REFEREE: All take turns being the  
10                  10                  chicken and egg.

11                  11                  MR. PARKER: Mr. Drescher would not sit  
12                  12                  here in front of Your Honor saying if I had conducted  
13                  13                  an interview with Mr. Armstrong that he could take my  
14                  14                  deposition and inquire. If that is the case we are to  
15                  15                  depose Mr. Yanny because he represents himself, that  
16                  16                  is an exception to the work product privilege.

17                  17                  They have the right to represent  
18                  18                  themselves and they don't forfeit the work product  
19                  19                  privilege. I want to inquire because when I take Mr.  
20                  20                  Drescher's deposition, believe me, I will do the same  
21                  21                  thing.

22                  22                  THE REFEREE: And I will try to be  
23                  23                  consistent in my rulings.

24                  24                  MR. DRESCHER: I trust Your Honor will.

25                  25                  THE WITNESS: And I have preserved my

2 1 privilege and refuse to answer the question despite  
2 the Referee's ruling.

3 MR. DRESCHER: I'm going to ask for a  
4 specific order, Mr. Yanny, to answer that question.

5 MR. PARKER: He respectfully refuses.

6 If you disclose the information, even in  
7 the face of a court order -- and I accept that Your  
8 Honor's order would be a court order -- the cat's out  
9 of the bag.

10 In order to preserve and have any  
11 meaningful denovo review, should he elect to seek that  
12 form of review, he's got to keep silent until the  
13 matter can be finally determined.

14 THE REFEREE: If that's the way you want  
15 to proceed, then you certainly can do that.

16 We'll see what position we reach here as  
17 to what other relief anybody might end up finding  
18 themselves entitled to.

19 MR. DRESCHER: In that regard we have now  
20 had that assertion that interferes with this line of  
21 questioning. Whether ultimately it's decided that  
22 that particular privilege and refusal to answer,  
23 despite the courts ruling, is well taken, is one  
24 thing. Whether or not we ultimately get that question  
25 answered is another.

3           1                   The point being it has now reached the  
2           2                   stage where inquiry that the Referee has found to be  
3           3                   proper is not forthcoming, and I think it behooves us  
4           4                   to step back for a minute and address where that's  
5           5                   going.

6                         Frankly, I intend to ask questions of Mr.  
7           7                   Yanny today that I anticipate will engender similar  
8           8                   types of objections, similar types of disagreements,  
9           9                   and from my prospective, similar type rulings.

10                        And the purpose of a Referee deposition  
11           11                  is of course to sort this out and make it go more  
12           12                  smoothly. It seems to me it might do us all well to  
13           13                  stop and consider what we do from here. And I frankly  
14           14                  would like about five minutes to discuss this with my  
15           15                  client.

16                        THE REFEREE: Take 10.

17  
18                               (Recess taken 1:45 p.m. to 2:00

19                               p.m.)

20  
21                        THE REFEREE: We took a ten minute recess  
22           22                  so Mr. Drescher could consider his options and desires  
23           23                  and how he wanted his work product to develop.

24                        MR. DRESCHER: I believe we left off with  
25           25                  an instruction not to answer on the basis of

3 1 attorney-client privilege.

2 MR. PARKER: That's not what the record  
3 will reflect.

4 Q BY MR. DRESCHER: What did we leave off  
5 with?

6 A I'm going to answer.

7 Q Fire away.

8 A Without waiving my objection, my  
9 recollections of what I said to Mr. Armstrong  
10 regarding my intervention probably wouldn't violate  
11 any of my work product privilege anyway.

12 I think I just told him I was going to  
13 intervene and I asked him when the hearing was set  
14 for. To the best of my recollection. And there was  
15 actually a cross-up in the dates of some sort --  
16 that's about all I recall saying or asking Jerry about  
17 the intervention.

18 Q No other discussions with him on the  
19 subject, at all, to your recollection?

20 A Not that I recall.

21 Q Just that brief conversation you just  
22 recounted of what you said to him?

23 A That may not have been in one  
24 conversation. It may have been in more than one.

25 Q You had more than one conversation with

1 Mr. Armstrong on the subject, is that right?

2 A Two maybe, that I can recall.

3 Q Did I understand correctly that you may  
4 be collapsing parts of the two conversations into that  
5 one answer?

6 A It's been so long ago and it was so near  
7 the holiday season.

8 Q Is that a yes or no, Joe?

9 A Yes. It is a yes.

10 Q Is it a yes that perhaps you have gotten  
11 the two conversations mixed into one?

12 A I could have perhaps done that.  
13 I don't recall obviously, or else I  
14 wouldn't have to potentially collapse them.

15 Q Was either conversation face-to-face?

16 A Not that I recall.

17 Q Both telephonic?

18 A To the best of my recollection.

19 Q Do you recall who placed the first phone  
20 call?

21 A No.

22 Q Do you recall who placed the second phone  
23 call?

24 A No.

25 Q Was anyone else on the phone at your end

1 of either of those calls?

2 A No.

3 Q To your knowledge, was there anyone on  
4 the other end, of Mr. Armstrong's end, in either of  
5 those phone calls?

6 A Not to my knowledge, no.

7 Q No one else spoke during the conversation  
8 except you and Mr. Armstrong?

9 A Unless one of his body thetans was acting  
10 up I think it was just him.

11 And I don't have any thetans, I'm a  
12 natural OT.

13 Q Mr. Yanny, what did Mr. Armstrong say to  
14 you in the first of those telephone conversations?

15 A I don't recall except that Toby -- I  
16 remember him saying that Toby was representing him in  
17 the proceedings.

18 Q Toby Plevin?

19 A Yes.

20 And then I remember him saying that Ford  
21 Greene was not representing him in the proceeding.

22 And I remember him giving me a date,  
23 which date I can't recall, that was notable with  
24 respect to the proceedings that were about to unfold.  
25 That's about it.

3

1 Q Did he tell you when the hearing was set  
2 for?

3 A Again, he gave me a date and a time that  
4 was notable with respect to the proceedings.

5 How it related, I don't recall.

6 Q Have you had any discussions with either  
7 of the Aznarans about your intervention on Mr.  
8 Armstrong's behalf?

9 A Not that I recall.

10 Q Mr. Yanny, I'm going to go through a list  
11 of names and let you know that I'm going to be asking  
12 roughly the same question with respect to each of the  
13 names.

14 I want to know since this lawsuit was  
15 initiated -- and we can make reference to the  
16 complaint in that regard, July 18, 1991 or  
17 thereabouts -- have you had any communications on the  
18 subject of this lawsuit with the following people:

19 Vicki Aznaran?

20 MR. PARKER: I object to the question on  
21 the grounds that it violates the temporal scope of our  
22 lawsuit.

23 My client is not accused of any  
24 wrongdoing after that action was filed. Certainly not  
25 after the preliminary injunction was entertained.

1                   And secondly, I object to the question on  
2                   the grounds that if his answer is yes -- well, I guess  
3                   that's premature. If the answer is yes then we'll  
4                   have some other objections.

5                   But I don't believe that any of these  
6                   conversations, if they took place, would be probative  
7                   with respect to any of the issues in the lawsuit.

8                   MR. DRESCHER: Obviously the definition  
9                   of relevancy with respect to discovery includes  
10                  attempting to find witnesses in an effort to develop  
11                  further evidence.

12                  What I'm seeking to do is obtain data  
13                  concerning Mr. Yanny's contacts, discussions  
14                  concerning the subject matter of this lawsuit. And in  
15                  every effort to conclude discovery, find other avenues  
16                  and prepare my case.

17                  That is part of what discovery is about.  
18                  This is hardly an unusual question in discovery,  
19                  asking to explore communications between a defendant  
20                  or defendants and other potential witnesses about the  
21                  lawsuit.

22                  THE REFEREE: The objection is overruled  
23                  to this particular question.

24                  THE WITNESS: I object on behalf of my  
25                  former clients, Vicki and Richard Aznaran, and would

4 1 note for the record, as well Your Honor, that at the  
2 time this lawsuit was filed for a period of time  
3 thereafter I was their counsel in the case I  
4 identified in the Federal District Court in front of  
5 Judge Edelman.

6 Insofar as it attempts to elicit  
7 information related to their case, or potentially  
8 related to their case, communications between them and  
9 their counsel, I would interpose the attorney-client  
10 work product privileges.

11 THE REFEREE: That may apply.

12 At the moment I have no way of knowing  
13 whether it applies, anything applies, because first  
14 the fact that you may have had a conversation or  
15 conversations is a yes or no answer.

16 And then where we go from there we'll  
17 have to all find out together.

18 THE WITNESS: I would also like to  
19 interject for the record in an attempt to elicit  
20 communications involving my communications post RO and  
21 post preliminary injunction I will interpose my rights  
22 under the 1st, 4th, 5th and 14th Amendments to the  
23 United States Constitution.

24 And also my rights of privacy under  
25 Article 1, Section 1 of the California Constitution.

1 MR. PARKER: I think the Judge is saying  
2 it's a little premature. If the answer is no, it's  
3 all moot.

4 THE WITNESS: The questions regarding  
5 this lawsuit?

6 THE REFEREE: Isn't that the question?

7 MR. DRESCHER: It certainly is.

8 THE WITNESS: I also interpose the work  
9 product privilege with respect to the defense of this  
10 case.

11 A The answer is yes.

12 Q BY MR. DRESCHER: The same question as to  
13 Richard Aznaran?

14 A Yes.

15 Q The same question as to Jerry Armstrong?

16 A Yes.

17 Q The same question as to Bent Corydon?

18 A Yes.

19 MR. PARKER: Objection, it's irrelevant.  
20 He's not being accused of any wrongful behavior with  
21 respect to Mr. Corydon.

22 MR. DRESCHER: Mr. Corydon is going to be  
23 deposed by you.

24 MR. PARKER: What has that got to do with  
25 anything? He has relevant testimony to give in this

1 case.

2 This question is to find out who we  
3 talked to as potential witnesses. When I served form  
4 interrogatories 12.1 and 12.2 and 12.3 they asserted  
5 the work product privilege. Now they want us to do  
6 the same.

7 MR. DRESCHER: The question was as to  
8 Bent Corydon.

9 THE REFEREE: Overruled. You may answer.

10 A Yes.

11 Q BY MR. DRESCHER: Ford Greene, same  
12 question?

13 A I don't recall.

14 Q John Clifford Elstead, same question?

15 A Yes.

16 Q C. Tony Wright, same question?

17 A I certainly don't think so.

18 Q Karen McRae, same question?

19 A I don't recall.

20 Q Toby Plevin?

21 A Yes.

22 Q Sandra Baker?

23 A Who?

24 Q Sandra Baker, same question?

25 A I have no current recollection of a

4 1 Sandra Baker.

2 Q Let me move on.

3 Gary Ernst, same question?

4 A Can you tell me who Gary Ernst is?

5 Q Yes, Gary Ernst is a representative of  
6 the Internal Revenue Service Exempt Organizations  
7 Division.

8 MR. PARKER: Your Honor, I object to the  
9 question. The same grounds as before.

10 He asked about Mr. Walsh before we broke  
11 for lunch. My client's communications with government  
12 officials in the course of their duties have nothing  
13 to do with this lawsuit.

14 MR. DRESCHER: That question I asked  
15 before lunch was have you had various discussions with  
16 Mr. Walsh over the years, and that was to which an  
17 objection was sustained.

18 I'm now asking specifically as to this  
19 lawsuit and the extent of Mr. Yanny's desire to injure  
20 his clients in any way he possibly can in violation of  
21 his fiduciary obligations.

22 MR. PARKER: That's not what this  
23 complaint says. I'm defending a complaint that has  
24 two causes of action that deals with the Aznarans and  
25 Armstrong.

1 THE REFEREE: Objection sustained.

2 MR. DRESCHER: Let me address this. Let  
3 me make a record.

4 THE REFEREE: Make your record with  
5 respect to government agents.

6 MR. DRESCHER: I' was going to add a  
7 third. That's Allen Lipkin.

8 Mr. Lipkin's a Criminal Investigation  
9 Division employee of the IRS.

10 Ms. Baker is a Collection Agent employed  
11 by the IRS.

12 Mr. Ernst is involved as an agent for the  
13 Internal Revenue Service in the Exempt Organizations  
14 branch.

15 Mr. Yanny received subpoenas from the IRS  
16 in September or October, excuse me, October and  
17 November of 1991. Those subpoenas were issued, two of  
18 them by Mr. Ernst, one of this them by Ms. Baker --  
19 the name of which he's already said he doesn't recall.  
20 All three of those subpoenas were issued by those IRS  
21 employees with respect to Mr. Yanny's former  
22 representation of these churches.

23 With respect to this lawsuit, and indeed,  
24 without going into detail Your Honor, growing out of  
25 abortive settlement negotiations that took place in

5       1       this very case, these were simply subpoenas that were  
2       2       issued to attempt -- we believe, and we would like to  
3       3       prove through this inquiry -- that the IRS was trying  
4       4       to legitimize and validate information it already had  
5       5       received in violation of Mr. Yanny's fiduciary  
6       6       obligations with respect to who knows what. But you  
7       7       certainly heard this man spew out everything he could  
8       8       think of, whether true or not, all day. Those  
9       9       subpoenas were quashed, all three them.

10               There is an involvement of those IRS  
11       agents in that case. And that's why this question of  
12       whether Mr. Yanny was involved in any communications  
13       with those individuals concerning this lawsuit goes  
14       straight to the heart of his ongoing breaches.

15               We also can show that through testimony  
16       that was only elicited in the past week that Ms. Baker  
17       indeed has a file concerning communications with Mr.  
18       Yanny. If you recall, that's the Ms. Baker whose name  
19       he said he didn't remember.

20               We also have, through FOIA requests in  
21       another case, obtained information that Mr. Yanny had  
22       communications with Mr. Lipkin of the Criminal  
23       Investigations Division of the IRS, and it coincides  
24       with the Aznarans coming to California to stay with  
25       Mr. Yanny.

5                   1                   Now, Your Honor, I just think that when  
2                   you've got a case in which you're seeking to vindicate  
3                   a right as fundamental as a client's right to be  
4                   secure from his former counsel's temper tantrums and  
5                   his anger and his anxiety and his hatred and his  
6                   distrust, for whatever reason -- and there is such a  
7                   thing as an ongoing fiduciary duty -- that when you  
8                   take these incidents -- which are not unrelated as Mr.  
9                   Yanny would like you to believe, but all tie into this  
10                  suit, spinning from Ms. Baker and Mr. Ernst since time  
11                  coincidences with settlement matters that address  
12                  vaguely those subjects -- it is imperative we be able  
13                  to explore why this man sits here and spews such  
14                  anger, yet he goes out of his way to be  
15                  non-responsive, yet views discovery as an exercise  
16                  where he can spew out anything he wants, regardless of  
17                  what the question was, and we're foreclosed from  
18                  determining whether the fiduciary breach, the pattern  
19                  and practice of which I think is becoming clear -- and  
20                  it certainly is clear to us -- why we can't explore  
21                  into that.

22                         The punitive damages claims in here talk  
23                         about "oppression." They talk about "malice" and they  
24                         also specifically allege, with respect to this case,  
25                         Mr. Yanny has undertaken for the express purpose of

5       1       injuring the plaintiffs, his former clients, the  
2       fiduciary breaches alleged. These are all tied  
3       together.

4               I think it would be unjust, at least at  
5       this stage, for us to be precluded from a discovery  
6       proceeding -- this is not a trial, not admissible  
7       evidence -- but an effort to seek and learn of  
8       admissible evidence which is the definition of the  
9       referee on those issues. I have already identified  
10      Mr. Yanny's contacts with these people.

11              That's it in a nutshell.

12              MS. BARTILSON: The question went to  
13      communication about this lawsuit.

14              It's narrow. It's limited.

15              MR. PARKER: The Church's problems with  
16      the government, Your Honor, are well known, they go  
17      back to the seventies when Ms. Bartilson's boss was an  
18      unindicted co-conspirator.

19              They antedate my client being hired as  
20      well as his being fired. These people sued my client  
21      four years ago and they waived whatever privileges  
22      they had when they sued him.

23              Now as we are 47 days away from trial  
24      they're going on a fishing expedition. And if this is  
25      allowed then of course they'll come in, they're not

6 1 ready for trial, they'll want to delay the case and  
2 get an extension.

3 MR. DRESCHER: Mr. Parker just told you  
4 that four years ago these clients sued Mr. Yanny  
5 addressing the full scope of his representation. That  
6 was a two-part preliminary injunction. It had to deal  
7 with the Aznarans, and Bent Corydon, who's not part of  
8 this complaint.

9 If he can translate that specific  
10 allegation that has led to a preliminary injunction in  
11 1988 against Mr. Yanny representing the Aznarans or  
12 Corydon into the full scope of the representation,  
13 then he's at a real loss to argue that a preliminary  
14 injunction here which addresses the representation of  
15 Mr. Yanny of the Aznarans and Armstrong is so limited  
16 that it prevents us inquiring into conversations since  
17 this lawsuit was brought involving this lawsuit that  
18 Mr. Yanny has had with people who are percipient  
19 witnesses.

20 Particularly when we have the  
21 documentation concerning the subpoenas, they were  
22 quashed. The circumstance in which they arose, the  
23 timing in November 1991, the fact that Mr. Yanny has  
24 indeed been in communication with an IRS agent who  
25 admits to having a file about his communication but

6 1 whose name a minute ago he drew amnesia on.

2 When put in the context of this  
3 complaint, when put in the context of this case we're  
4 entitled to explore those things to see just how far  
5 Mr. Yanny has gone. If his explosions and if his  
6 detours and over-inclusive non-responsive answers in  
7 this case -- you have heard that this morning -- then  
8 we're certainly entitled to find out who he's mouthing  
9 off to.

10 MR. PARKER: Just to clarify what I said  
11 before, my client cross-complained for fees in Yanny  
12 I. He won. They lost on his trial complaint.

13 In defending his cross-complaints they  
14 set up defenses that he was intent, therefore the full  
15 scope of his services were litigated. They lost.  
16 Along the way they waived the privilege.

17 That really goes to the merits of the  
18 claim they haven't asserted. We're entitled to a  
19 notice pleading. An allegation as serious as this, I  
20 can read this complaint and come here today thinking  
21 that all I have to deal with is Armstrong and the  
22 Aznarans and not government agents.

23 THE REFEREE: Is there anything else you  
24 want to say Mr. Drescher?

25 MR. DRESCHER: No. I just want to

6 1 emphasize what I said before.

2 This is discovery. It's not the trial.  
3 What it is is our one and only -- according to Judge  
4 Cardenas -- opportunity to explore just how badly  
5 these clients have been injured.

6 THE REFEREE: I understand that that's  
7 your point.

8 As to the government agents, my ruling  
9 stands.

10 MR. DRESCHER: That is there is to be no  
11 inquiry into the substance of his communications, fact  
12 of, or substance?

13 THE REFEREE: Fact of or substance of the  
14 communications regarding this action, which I think  
15 was the scope of the question.

16 MR. DRESCHER: Substance would have been  
17 the next ground.

18 MS. BARTILSON: Can we have the basis for  
19 your ruling Your Honor?

20 THE REFEREE: I really can't see that  
21 it's appropriate in the circumstances of this case,  
22 and I don't believe that it's likely to elicit useful  
23 evidence.

24 MR. DRESCHER: We haven't spent any time  
25 in this case, Your Honor, discussing various

6 1 procedural matters that might arise. I see this as a  
2 preface to the observation that this is an issue, as  
3 Your Honor might suspect, that we would like to  
4 explore.

5 I believe, and I'm really unsure what the  
6 rule is, I think that I guess the appropriate way to  
7 address the issue of our, what we require in this area  
8 would be to make an appropriate motion to Judge  
9 Cardenas. Is that your understanding? To challenge  
10 the ruling that has been made with respect to  
11 government agents. I don't believe that Judge  
12 Cardenas addressed that specifically. I'm looking for  
13 guidance.

14 THE REFEREE: I'll certainly try to give  
15 it.

16 Normally a ruling in discovery you would  
17 seek a writ to something of that nature. Since we've  
18 got a Referee involved here I think the appropriate  
19 way would be to approach Judge Cardenas and see what  
20 his thoughts were.

21 Your problem is various -- your problems  
22 are various. You've got the time problem. And I  
23 would expect that you're going to explore whatever  
24 else you're going to explore with Mr. Yanny other than  
25 the government agent questions. Clearly if a ruling

7 1 is made by whomever makes the ruling, and it's  
2 appropriate to ask the questions, then I'm sure that  
3 Judge Cardenas' limitation of the time that Mr. Yanny  
4 is to be available for the taking of a deposition  
5 would be appropriately extended.

6 THE WITNESS: One thing that predates my  
7 counsel.

8 There has been a fairly well publicized  
9 case instituted by Mr. Drescher on behalf of these  
10 very same clients against a multitude of the IRS  
11 agents in the Federal District Court. Mr. Drescher  
12 was quoted in the L.A. Times with respect to the basis  
13 for that lawsuit. I'll simply note that.

14 THE REFEREE: Whatever. For whatever  
15 effect?

16 MR. DRESCHER: I raise the question, Your  
17 Honor, because I think that at this junction -- and  
18 there obviously are other areas I'm not going to waste  
19 the rest of the day -- I was trying to make sure, and  
20 I glean from what Your Honor says, I want to make some  
21 sort of offer of proof or something. I guess Judge  
22 Cardenas would be the appropriate place?

23 THE REFEREE: I would think you could  
24 start there. The use of the Referee is a help, but  
25 it's a little bit of never never land.

7

1                   The Referee is empowered by the Judge to  
2 perform certain functions. And in the sense you take  
3 the place of the Judge -- and I'm sure it was his  
4 intention that I take his place for the purpose of  
5 ruling on objections and whatnot -- I'm sure he hopes  
6 not to see, in other words this he has shifted to  
7 somebody else. And it may be that it's appropriate to  
8 go directly to the court at the next level, which  
9 would be the court of appeal level, to look for  
10 relief. It may well be that Judge Cardenas will see  
11 it the same way.

12                   I would just informally ask him.

13                   MR. DRESCHER: I'm sort of at a loss  
14 here. I viewed this deposition Referee or otherwise  
15 as being sort of a deposition that the tangible  
16 strings that run from a relevant admissibility core  
17 are explored and exploited.

18                   I don't come here to make an offer of  
19 proof on the FOIA documents or the Aznarans and the  
20 IRS or Armstrong's and IRS. It's video taped  
21 admissions by Armstrong that he's an operative for the  
22 IRS. I didn't come prepared for that.

23                   I guess what I really want to do is bring  
24 it and seek some kind of guidance from Judge Cardenas  
25 to raise those sorts of points.

7 1 THE REFEREE: If he lays it back on me  
2 you know where you can take it from there.

3 Yes, we do have a TV. If some later  
4 stage in this discovery you need to do something --

5 MR. DRESCHER: I don't want to waste any  
6 more time today, because you made your ruling. I  
7 would like to reassess where I am. Ask for five  
8 minutes to do so.

9 THE REFEREE: Five minutes.

10 MR. DRESCHER: I will ask for 10.

11  
12 (Recess taken 2:27 p.m. to 2:46  
13 p.m.)

14  
15 MR. DRESCHER: Sorry I took more than 10.

16 THE REFEREE: Back on the record.

17 Q BY MR. DRESCHER: Mr. Yanny, when did you  
18 first learn that the Aznarans were looking to replace  
19 Ford Greene as their attorney in the Aznaran case?

20 A That question is pregnantly compound.  
21 Insofar as it attempts to potentially  
22 invade, it's argumentative.

23 MR. PARKER: I understand you're asking  
24 for a date.

25 Q BY MR. DRESCHER: Yeah, when did you

7           1       first learn that the Aznarans were attempting to  
          2       replace Ford Greene as their attorney in the Aznaran  
          3       case?

          4  
          5                       (Discussion held off the record  
          6                       between the deponent and counsel.)

          7  
          8               MR. PARKER: To the extent it would call  
          9       for him to disclose information he got from his former  
         10       clients in confidential communications --

         11               MR. DRESCHER: Nonsense.

         12           A       It is pregnant with a communication that  
         13       obviously would have had to have come from the client.

         14                       And without acknowledging the truth or  
         15       facility of the presupposition on the part of my  
         16       esteemed opposition, I'm not going to answer that  
         17       question based on attorney-client and/or work product  
         18       privileges.

         19               THE REFEREE: I'm going to order you to  
         20       answer.

         21               THE WITNESS: I'm going to have to refuse  
         22       then Your Honor.

         23               THE REFEREE: I would suggest if you  
         24       refuse enough then somebody is going to be making a  
         25       motion to strike your answer.

7           1                   THE WITNESS: What I would suggest is to  
2 ask him to rephrase the question.

3           4                   THE REFEREE: I don't find any fault with  
5 the way it's phrased, and you're stuck with me on this  
6 kind of a situation.

7           8                   If I think -- I have no intention to, of  
9 requiring you to breach any obligation that I can see  
10 exists.

11           9                   And I can be wrong. I can accept that.  
12 But on this kind of communication I just can't see it.

13           10                  THE WITNESS: If I might revisit, as Mr.  
14 Drescher has done a number of times on the record, the  
15 question as posed is when did you first learn that the  
16 Aznarans were seeking to replace Ford Greene as their  
17 counsel?

18           11                  Obviously if that kind of communication  
19 existed it could have only come from my former  
20 clients, Vicki and Richard Aznaran. To answer that  
21 question -- which is argumentative, therefore, in  
22 form -- would be to disclose the substance of  
23 conversations from my former client, Vicki and Richard  
24 Aznaran to me, and therefore violative of the  
25 attorney-client privilege.

          26                  THE REFEREE: You heard the order. You  
do as you choose.

1 THE WITNESS: I don't recall that I ever  
2 found out that Vicki and Richard Aznaran were seeking  
3 to relieve Ford Greene as counsel.

4 I found out that they had relieved Ford  
5 Greene as counsel after a breakfast meeting between  
6 yourself, Mr. Quinn and Mr. Van Sickle, in which you  
7 made a joint offer of settlement to Barry Van Sickle  
8 knowing that Ford Greene was then counsel of record  
9 for the Aznarans in the Aznaran case.

10 You linked the settlement of the Aznaran  
11 and Corydon cases with a lump sum of money that Van  
12 Sickle was to split up between the two clients, one of  
13 which was not his client but somebody else's client,  
14 after you sought to have him disqualified from the  
15 Aznaran case -- and did have him disqualified from the  
16 Aznaran case -- and on the express proposition that  
17 you would not settle with Ford Greene, you would not  
18 deal with Ford Greene, and thereafter Vicki and  
19 Richard, after receiving information from your agent,  
20 Van Sickle -- who was no longer the Aznaran's  
21 counsel -- dismissed Ford Greene as their counsel.  
22 Once they were in persona propria, you then began to  
23 file summary judgement motions.

24 I hope that answers your question.

25 Q BY MR. DRESCHER: No, it doesn't.

1 I want to know when you first learned  
2 that the Aznarans were looking to replace Ford Greene?

3 A I already answered the question.

4 Q When did you first learn that the  
5 Aznarans had substituted themselves for Ford Greene?

6 A I can't recollect an exact date.

7 Q Who was present at this breakfast meeting  
8 you're talking about?

9 A You, Van Sickle and Quinn.

10 Q Who else?

11 A I think that's it. Maybe the waiter.

12 Q Were you there?

13 A No.

14 Q Were either of the Aznarans there?

15 A No, not that I know of. But you'll have  
16 to ask them.

17 Q You weren't?

18 A I wasn't.

19 Q Who told you what happened at that  
20 meeting?

21 A Van Sickle, your agent.

22 Q Anyone else?

23 A Insofar as anyone else would have  
24 informed me, I will interpose the attorney-client  
25 privilege.

1 THE REFEREE: Sustained this time.

2 THE WITNESS: Thank you Your Honor.

3 Q BY MR. DRESCHER: What was the date of  
4 the breakfast meeting, do you know?

5 A No. There were a series of them.

6 Q The first one?

7 A I believe they began sometime in early  
8 May, and so continued.

9 Q You identified in your verified answer,  
10 "June 5th, 1991."

11 Is your recollection different now?

12 A I don't know what I identified in my  
13 verified answer or I didn't identify in my verified  
14 answer.

15 I'm giving you my present recollection of  
16 what I know. Keep talking. I think my recollection  
17 may be refreshed.

18 Q Does June 5th ring a bell?

19 A Not particularly right now.

20 Q Then I'm going to ask you a question that  
21 relates to June 5th.

22 Prior to June 5th, 1991, did you ever  
23 discuss with the Aznarans their replacing Ford Greene  
24 as their attorney?

25 MR. PARKER: Objection, attorney-client

1 privilege.

2 MR. DRESCHER: I'm talking about the  
3 period prior to June of 1991. Mr. Yanny doesn't enter  
4 an appearance in the Aznaran case until June 28, 1991.

5 MR. PARKER: Are you making that  
6 representation?

7 I hear you giving speeches and  
8 testifying. You're not even under oath.

9 You'll get a chance to give your  
10 deposition next week. Why don't you ask the question  
11 and we will go on?

12 MR. DRESCHER: I did.

13 MR. PARKER: I object on the  
14 attorney-client privilege grounds.

15 MR. DRESCHER: And my response is since  
16 Mr. Yanny says in paragraph 23 of his verified answer  
17 that he represented Vicki -- answering paragraph 23 of  
18 plaintiffs' complaint:

19 "Defendants admit that defendants" --  
20 that's Yanny -- "acted reasonably and ethically in  
21 representing Vicki and Richard Aznaran over a short  
22 period of time in the federal action, beginning on  
23 June 28, 1991."

24 My question was prior to June 5, 1991,  
25 did Mr. Yanny ever discuss with the Aznarans replacing

1 Ford Greene as their attorney?

2 A For the record, insofar as your question  
3 attempts to get in what I discussed with Vicki and  
4 Richard Aznaran I will, on their behalf, interpose the  
5 attorney-client privilege. And the appearance began  
6 in the federal action on June 28, 1991.

7 But it is obvious that prior to that date  
8 there must have been discussions between I and the  
9 Aznarans regarding my representation of them in that  
10 case. I did not substitute in for Ford Greene. I  
11 substituted in for Vicki and Richard Aznaran who were  
12 in persona propria in slight of hand by your  
13 fatness.

14 MR. DRESCHER: Are you referring to me?

15 THE WITNESS: Yes.

16 THE REFEREE: We don't really need this.

17 MR. PARKER: Let me talk with my client.

18 MR. DRESCHER: Keep the time.

19 MR. PARKER: This is my third time out  
20 less than any one of his.

21

22 (Whereupon, the witness  
23 and counsel left the deposition  
24 room 2:55 p.m. to 2:56 p.m.)

25 ///

1 THE REFEREE: Let the record show we had  
2 a 30 second recess.

3 THE WITNESS: Thank you Your Honor.

4 MR. PARKER: Sorry to take so long Your  
5 Honor.

6 THE WITNESS: He's a fast talker.

7 THE REFEREE: I don't really remember  
8 exactly where we were when we took the recess.

9 THE WITNESS: There was an objection  
10 pending.

11 THE REFEREE: There was an objection?

12 THE WITNESS: Based on attorney-client  
13 privilege.

14 MR. PARKER: The question is whether or  
15 not he had pre June 5 discussions about disposing of  
16 Mr. Greene's services, and I objected on the  
17 attorney-client privilege.

18 I have been reminded of that wonderful  
19 scene, Your Honor, in the movie "Presumed Innocent"  
20 where the psychiatrist took the stand and asked them  
21 if Rusty Sabich admitted he killed the young lady.  
22 The answer was no. His lawyer stood silent because he  
23 knew it would not be a waiver of privilege.

24 THE REFEREE: Alright. The objection's  
25 sustained.

1

THE WITNESS: Thank you Your Honor.

2

3

(Discussion held off the record.)

4

5

Q BY MR. DRESCHER: When did Mr. Van Sickle

6

tell you about the first of these breakfast meetings

7

to which you made reference?

8

A I don't know what you're talking about.

9

Q Did Mr. Van Sickle talk to you about what

10

had transpired at the breakfast meeting to which you

11

referred?

12

MR. PARKER: To the extent the question

13

calls for conversations during the time they were

14

lawyer and client, I object on the attorney-client

15

privilege grounds since your question is not limited.

16

THE REFEREE: Well, I'm a little confused

17

now.

18

Are you saying there was an

19

attorney-client relationship between Mr. Van Sickle

20

and Mr. Yanny?

21

MR. PARKER: He was my predecessor.

22

THE REFEREE: With that limitation, you

23

can answer the question.

24

MR. DRESCHER: Before he does Your Honor,

25

he was not Mr. Yanny's attorney at the time.

1 THE WITNESS: Yeah, he was. And Yanny  
2 won an appeal.

3 Q BY MR. DRESCHER: This is a question  
4 involving the Corydon case and the Aznaran case.  
5 Mr. Yanny was not a party in either and was not  
6 represented in either. Mr. Van Sickle was not his  
7 counsel in either.

8 Mr. Van Sickle had a conversation with  
9 Mr. Yanny. The question is when did he have it? He  
10 testified to the fact he had it. If he had it in June  
11 a day or two or week or more after June 5th but prior  
12 to this lawsuit being brought, then it doesn't apply.

13 THE REFEREE: Did you have a  
14 conversation?

15 I thought he already testified there was  
16 a conversation? (Indicating the witness)

17 THE WITNESS: Yes.

18 Q BY MR. DRESCHER: The question was when?

19 THE REFEREE: When did you have the  
20 conversation?

21 A It would have been before I made my  
22 appearance in the Aznaran case.

23 Q BY MR. DRESCHER: Sometime after the  
24 breakfast meeting but before you made the appearance?

25 A There were a series of conversations I

9           1       had with Van Sickle over the course of those breakfast  
2           2       club meetings.

3           Q       So it was more than one conversation with  
4           Mr. Van Sickle?

5                   How many meetings?

6           A       I don't know how many meetings there  
7           were. But they were occurring on a fairly regular  
8           basis.

9           Q       What did Mr. Van Sickle tell you about  
10          the first of those meetings?

11                  MR. PARKER: Object. Mr. Van Sickle was  
12          this man's lawyer for the better part of two or three  
13          years, including the time frame that he's talking  
14          about.

15                  MR. DRESCHER: I think maybe I better  
16          focus this for Your Honor's interpretation.

17                  What Mr. Yanny is alleging is his  
18          rendition of what Mr. Van Sickle told him about in  
19          breakfast meetings among Mr. Van Sickle, Mr. Quinn,  
20          myself and no one else, concerning the Aznaran case,  
21          and concerning the Corydon case.

22                  They had nothing to do with Yanny 1, they  
23          had nothing to do with the case we're here now on,  
24          which didn't get filed until over a month later.

25                  What I'm asking is what Mr. Van Sickle,

9  
10  
1 who at the time was Mr. Corydon's lawyer, told Mr.  
2 Yanny in the period between the time the first of  
3 those meetings took place in which the Aznaran and  
4 Corydon cases were discussed, and Mr. Yanny's  
5 appearance June 28, 1991 on behalf of the Aznarans in  
6 the Aznaran case. I fail to see how the fact Mr. Van  
7 Sickie representing Mr. Yanny in Yanny 1 has anything  
8 to do with that.

9 MS. BARTILSON: Mr. Yanny's lawyers have  
10 consistently maintained that this breakfast meeting is  
11 highly relevant to their defense.

12 MR. PARKER: My client wasn't present at  
13 the meeting, so he isn't going to be able to give any  
14 first hand account. All he can say is a hearsay  
15 account that comes from his lawyer.

16 MS. BARTILSON: Didn't I see just hear  
17 that argument from Mr. Barker concerning Bent Corydon?

18 MR. PARKER: As to whether or not there  
19 was a connection to Yanny 1, I don't think there needs  
20 to be one.

21 The fact that the members of the  
22 breakfast club submitted declarations in this court  
23 action that we're involved in and in it they made  
24 reference to the Yanny 1 case being an item of  
25 conversation with Mr. Van Sickie's declaration on that

1 day.

2 THE WITNESS: Mr. Van Sickle's  
3 declaration made reference to, during the course of  
4 those breakfast club meetings, a number of things were  
5 discussed, including settlement of Aznaran, Corydon  
6 and/or Yanny litigation.

7 MR. PARKER: It's privileged.

8 Lawyers and clients are privileged to  
9 talk about things that might be irrelevant.

10 MR. DRESCHER: But the privilege only  
11 extends to the instances on which the client seeks a  
12 lawyer's guidance.

13 THE REFEREE: Thank you.

14 The objection's overruled. You can  
15 answer the question.

16 A To the best of my recollection -- and  
17 this will probably crystalize as it comes out, I can't  
18 recall specific dates at present -- Van Sickle had  
19 stated -- we were in regular, fairly regular contact.  
20 He was of counsel to my firm and he was working on a  
21 number of other cases with me at the time -- Van  
22 Sickle had stated that there were settlement talks  
23 going on. And that you wanted to silence Corydon.

24 You wanted to remove from his possession  
25 documents relating to the IRS raid and some of the

10           1       things that had been discovered during the course of  
2           2       the IRS raid from his possession, and you wanted to  
3           3       make sure that you got all copies.

4                     That you also wanted to remove documents  
5           5       from Mr. Corydon's possession as part of the  
6           6       settlement that related to Hubbard's fraudulently  
7           7       represented past and his military history, and the  
8           8       fact that he had been in a mental hospital, a place  
9           9       called Oak Knoll, those types of things that Corydon  
10          10      had in his possession, that Jerry Armstrong had taken  
11          11      and Corydon had obtained copies of.

12                    That you wanted to remove from his  
13          13      possession various other types of documents that may  
14          14      have been necessary or helpful for other people to  
15          15      have in the future in case litigation between you and  
16          16      they broke out.

17                    But you also wanted to have removed  
18          18      Corydon's right to associate or to freely and  
19          19      voluntarily assist other people in litigation in the  
20          20      future in which you -- when I say "you," I mean the  
21          21      organization was a party. And that as part of the  
22          22      settlement you wanted to impair his ability to take  
23          23      cases against you in the future. And there had been  
24          24      passing jokes if he didn't take cases perhaps money  
25          25      could be arranged to be available to him at some other

10           1       location other than in the United States.

2                   Van Sickle also stated that the initial  
3       settlement offer that you had proposed, that you came  
4       to a meeting and that at the time the Aznarans were  
5       then represented by Ford Greene. Van Sickle had  
6       already been disqualified. And that he was not  
7       permitted at that time, by his partners, from coming  
8       into the Aznaran case. Van Sickle had already been  
9       disqualified in the Aznaran case. He not taken a writ  
10      on the matter but his partners would not let him  
11      proceed any further.

12                  You guys had made a settlement offer that  
13      you threw out on the table, two million dollars, and  
14      that you told Van Sickle to divide it amongst his  
15      clients, the Aznarans and the Corydon's, in any way  
16      that he felt appropriate. But that he played a rather  
17      high stakes game of risky poker. You were talking  
18      about motion in limine in the Corydon case and there  
19      was some passing joke, I don't know how many motions  
20      there were, how many there were.

21                  MR. DRESCHER: You're answering --

22                  A       But you would deduct \$100,000 off the two  
23      million dollar pot for each of the motions in liminie  
24      that would be granted.

25                  Van Sickle said that Corydon would not

11       1       settle for less than a million dollars in Corydon's  
2       2       pocket and that as a result the money that would be  
3       3       left over -- as you guys had arrived at some figure  
4       4       whereby you discussed the merits of each of the  
5       5       motions in liminie -- was somewhere in the  
6       6       neighborhood of 1.5 I believe. Assuming that you  
7       7       would win about five. And that that would not leave  
8       8       enough for the Aznarans to settle their case.

9               Van Sickle further stated that you had  
10      10      indicated that you would not deal with Ford Greene in  
11      11      settlement, that he had seriously offended high  
12      12      ranking members of the organization, including David  
13      13      Miscavige and Earle Cooley, by his wearing of a Cult  
14      14      Busters t-shirt to a deposition in Dallas, Texas, and  
15      15      the fact that he wore sandals and no socks really  
16      16      bugged Earle bad. And that he was a slob, he hadn't  
17      17      done his job, he was incapable of doing any of the  
18      18      things that a lawyer does.

19              This is the substance by the way of the  
20      20      conversations that took place over a period of time  
21      21      between Van Sickle and I. I became probably most  
22      22      aware of them after the conversations had taken place  
23      23      and the Aznarans had dismissed Ford. When I say  
24      24      "Ford" I mean Ford Greene.

25              Van Sickle then stated that you guys --

11           1       you guys being the organization --

2                   Q       BY MR. DRESCHER: Hang on a second.

3                            You said you became aware of these  
4       conversations mostly after the Aznarans had dismissed  
5       Greene, is that what you just said?

6                   A       The conversations regarding the fact that  
7       you wouldn't deal with Greene, most of that becomes  
8       painfully apparent to me after Greene was already out  
9       of the case. I can't remember when Van Sickle first  
10      specifically started telling me about these meetings,  
11      but he did outline when they began and that they were  
12      ongoing.

13                           Van Sickle then stated, at some point in  
14      time it came to my attention through Van Sickle that  
15      the Aznarans had had communications with him. And he  
16      recounted to me on the phone, in a conference call  
17      with Vicki and Richard -- I made sure we were all  
18      patched together because I didn't want him laying a  
19      bunch of of BS in one place -- he admitted the  
20      substance of conversations.

21                           You at one point in time came in and you  
22      pulled out a proposed draft of the Corydon settlement  
23      agreement and you handed it to him in an envelope.  
24      You said I know this is not 1986, but my clients would  
25      like you and Plevin out of the Scientology litigation

11       1       business. I realize that it's unethical for me to  
2       2       even suggest such a thing. And you handed him the  
3       3       settlement agreement. I believe he told me he  
4       4       understood it probably violated 1-500, some kind of  
5       5       code of responsibility.

6               At some point in time Van Sickle called  
7       7       me and he told me the Aznarans had relieved Ford  
8       8       Greene, that he had a conversation with them after  
9       9       having had a conversation with you, after having a  
10      10      series of conversation with you in which he conveyed  
11      11      the sum and substance of what I just told you. That  
12      12      you guys wanted to settle and wanted to proceed to  
13      13      settlement negotiations. You wanted out of the  
14      14      litigation business, but you would not deal with Ford  
15      15      Greene. You would not deal with Ford Greene.

16              And that he indicated he had told the  
17      17      Aznarans that he could not come in because he had  
18      18      previously been disqualified. But that after having  
19      19      talked to you all -- "you all" being you and Jack,  
20      20      Jack Quinn -- he had recommended, at your suggestion,  
21      21      that they perhaps come in in persona propria.

22              They did that. They relieved Ford  
23      23      Greene. They came in in persona propria. At the very  
24      24      next meeting of the substitution of the Aznarans in  
25      25      persona propria had taken place that you then told him

11       1     your client no longer had interest in settling the  
2       2     Aznaran case because they were no longer with counsel.  
3       3     And within a matter of days you had filed motions for  
4       4     summary judgement against these people who were now  
5       5     effectively without counsel.

6                 I asked Van Sickle if he was going to  
7       7     make a motion for reconsideration or appearance, he  
12       8     said that he couldn't. He had been disqualified. You  
9       9     guys wouldn't waive even though you baited him into  
10      10     conveying the information to the Aznarans that you  
11      11     would deal in good faith.

12                I then asked Toby if she would come in  
13      13     because I'll be a son of a bitch if I was going to  
14      14     watch these people get baited by that kind of nonsense  
15      15     into being without counsel, and have you file motions  
16      16     for summary judgement on a 21 day schedule wherein  
17      17     they had to oppose motions seven days, offer of reply  
18      18     papers within another seven days and a hearing within  
19      19     21 days of filing.

20                MR. PARKER: The question is  
21      21     conversations with Van Sickle.

22                A       Van Sickle said he wouldn't come in and  
23      23     he didn't know if Toby would. That they were afraid  
24      24     of coming in or even testing the water because you  
25      25     guys had made saber rattling that if they attempted to

1 make an appearance in that case to help the Aznarans  
2 out in opposition to the summary judgement that it  
3 would quote "queer the Corydon settlement agreement."  
4 "They" being Van Sickle and Toby Plevin.

5 Quinn later told me that the figure was  
6 1.3 million dollars.

7 Q BY MR. DRESCHER: I wanted to know what  
8 Barry told you?

9 A Okay.

10 Barry then told me -- he had also told me  
11 of the fact that he had made an appearance in the  
12 Corydon case and that you guys had attempted to  
13 disqualify him. I believe it was the Judge, the Irish  
14 fella, O'Brian.

15 Q Barry told you that?

16 A That you guys had tried to disqualify him  
17 in the Corydon case.

18 Q Did Barry tell you that?

19 A Yes.

20 And that you --

21 Q This was after --

22 A Let me finish.

23 Q Is this still the June 5th, after June  
24 5th?

25 A Obviously it's after June 5th.

1 Q Why is that obvious?

2 THE REFEREE: Go ahead with your answer.

3 MR. DRESCHER: Just --

4 A I'm going to go ahead with my answer.

5 Van Sickle stated that you had attempted  
6 to disqualify him and that you had used all of the  
7 same arguments in front of this other Judge in the  
8 state court that you used in front of Judge Edelman in  
9 the federal case regarding the Aznarans. But that he  
10 had pled in that case, actually Toby had pled -- Toby  
11 Plevin for the record -- that there had been a change  
12 in circumstances, that you guys had waived the  
13 privilege with respect to me, that Judge Cardenas had  
14 already found there might not be a conflict of  
15 interest in my representation of the Aznarans based on  
16 the record that had been before him and had been fully  
17 litigated in Yanny 1.

18 That other items had happened. Even  
19 though he was of counsel to my firm now he was  
20 technically probably bound by the same matters, the  
21 same privileges that I was bound by, or duties that I  
22 was bound by.

23 There had been a change in circumstances.  
24 There was probably a non-relationship that he arranged  
25 these very same type of secrecy agreements as being

1 grounds to bar you from seeking the equitable remedy  
2 of disqualification, which it is, that you had insofar  
3 as these people's ability to maintain representation.  
4 And that he had successfully hurled that on the court.  
5 At least the state court system. And I believe that  
6 the same matter could be argued to Judge Edelman.

7 And he said that if I made an appearance  
8 in the Aznaran case that politically he couldn't do it  
9 now even though he promised people that he could.  
10 Politically he couldn't do it, and that if I made an  
11 appearance in the case he would defend me. He would  
12 make the same arguments that had already been  
13 successfully argued in the Corydon case -- which was  
14 one of the matters of settlement actually of the  
15 Corydon matter, which was the writ you had taken of  
16 the denial of the disqualification. He also told me  
17 about that.

18 What else do you want to know?

19 Q BY MR. DRESCHER: I want to know if he  
20 told you anything else about the breakfast meetings?

21 A Yeah, he did.

22 At first you didn't want Toby being  
23 present, you just wanted the three. Keep it kind of  
24 an all male club, right? And since he was talking to  
25 you about more than one case, that did not necessarily

12 1 involve Toby.

2 He indicated that -- this is prior to the  
3 institution of this suit, correct?

13 4 Q Yeah, I'm asking --

5 You identified it, in fact, as the period  
6 between the first breakfast meeting and you making an  
7 appearance in the Aznaran case as the time period in  
8 which Barry went over this?

9 A Yeah.

10 Which would have been on or about June  
11 28th that I think I submitted the papers or signed the  
12 papers.

13 Q It says the 28th where you signed them?

14 A I don't know when the Judge approved  
15 them.

16 MR. DRESCHER: I knew when he threw them  
17 out.

18 THE WITNESS: I figured you would know  
19 that.

20 Q BY MR. DRESCHER: Of course the Judge  
21 never signed them, did he?

22 A You tell me. You seem to be able to get  
23 behind closed doors in the federal courthouse.

24 Q I read the order that said they were  
25 approved by a clerk --

1 MR. PARKER: You're getting far-afield.

2 Q BY MR. DRESCHER: I want to know what  
3 else Van Sickle told you between the first breakfast  
4 meeting and June 28?

5 A That there had been a linkage of a number  
6 of matters including potentially settlement of the  
7 Yanny case, which would have been Yanny 1.

8 He told me that there had been discussion  
9 between all of you that you guys didn't want -- you  
10 guys being the organization didn't want Van Sickle and  
11 Plevin taking cases in the future.

12 He also told me that Toby was a bit  
13 worried about some covert threats for blackmail that  
14 had been thrown her way by ya'all.

15 That's it right now. I can't recall  
16 anything else. There was a lot discussed.

17 Q That's the best you can remember right  
18 now?

19 That's the extent of your memory as to  
20 those discussions between you and Barry Van Sickle  
21 between the first breakfast meeting and the 28th of  
22 June 1991?

23 A I might say a rather disgusting maneuver  
24 on your part, yeah.

25 MR. DRESCHER: I can remember why it's

1 hard to understand. You have to make it up as you go.

2 THE REFEREE: Gentleman, let's go  
3 forward.

4 Q BY MR. DRESCHER: Did the Aznarans ever  
5 tell that you Ford Greene didn't return their phone  
6 calls?

7 MR. PARKER: Objection, attorney-client  
8 privilege.

9 A Attorney-client.

10 Q BY MR. DRESCHER: I want to know how that  
11 relates?

12 Did the Aznarans ever tell that you Ford  
13 Greene did not return their phone calls?

14 MR. PARKER: Communications with the  
15 client are privileged.

16 MR. DRESCHER: It has nothing to do with  
17 seeking advice.

18 THE REFEREE: It could or it couldn't.

19 A (No response)

20 Q BY MR. DRESCHER: Did the Aznarans ever  
21 tell that you Ford Greene disappeared for several  
22 months into a rehabilitation center without telling  
23 them?

24 MR. PARKER: Same objection.

25 THE REFEREE: Same ruling.

1 A (No response)

2 Q BY MR. DRESCHER: Did the Aznarans ever  
3 tell you that other clients of Ford Greene had warned  
4 them that Greene had mishandled their cases?

5 MR. PARKER: Same objection.

6 THE REFEREE: Same ruling.

7 A (No response)

8 Q BY MR. DRESCHER: Did the the Aznarans  
9 ever tell that you Greene had billed them for a  
10 deposition that he never attended?

11 MR. PARKER: Same objection.

12 THE REFEREE: Same ruling.

13 A (No response)

14 Q BY MR. DRESCHER: Did the Aznarans ever  
15 tell that you Greene was doing nothing to move the  
16 case forward?

17 MR. PARKER: Same objection.

18 THE REFEREE: Same ruling.

19 A (No response)

20 MR. DRESCHER: One of the beauties of  
21 letting Mr. Yanny do a narrative is he generally makes  
22 fewer questions.

23 THE WITNESS: I don't usually miss many  
24 points.

25 MR. DRESCHER: You don't have to miss

1       them when you're inventing them.

2                   THE REFEREE:   You're both officers of the  
3       court, and I'd appreciate it if you would both try to  
4       remember that.

5                   MR. DRESCHER:   I'll apologize to Your  
6       Honor, but I hope Your Honor can understand hearing  
7       that stuff pour out of me.

8                   THE REFEREE:   I'm saying -- I don't find  
9       too many white hats right now.

10                  THE WITNESS:   I apologize to Your Honor.  
11       I hope Your Honor can understand I have a tough time  
12       reading that kind of stuff.

13                  MR. DRESCHER:   I'm disturbed by your last  
14       comment, not "too many white hats."   I'm sitting here  
15       and listening to this spew.

16                  THE REFEREE:   I know.

17                  You don't have to like it.   If you view  
18       it as garbage then you rise above it where you don't  
19       respond to it.

20                  MR. DRESCHER:   Very well.

21                  THE WITNESS:   There's your white hat.

22                  MR. DRESCHER:   Thank you.

23                  Q       BY MR. DRESCHER:   Mr. Yanny, when was  
24       your first discussion with the Aznarans about the  
25       possibility of representing them in their lawsuit

1 against the Church?

2 MR. PARKER: That calls for a date, not  
3 substance.

4 A I can't recall.

5 Q BY MR. DRESCHER: It was before Mr. Van  
6 Sickie had any of those conversations with you  
7 concerning the breakfast meeting, wasn't it?

8 A Again --

9 I'm sure it would have been to that  
10 effect, yes. Hell, it goes clear back to '88. I'm  
11 sure there was some discussion, as you recall from all  
12 that previous testimony.

13 Q When did you first discuss with the  
14 Aznarans the possibility of representing them  
15 beginning in June of 1991?

16 A I don't recall.

17 Q Was Mr. Van Sickie part of those  
18 discussions?

19 A I don't believe so.

20 Q When did you make the decision to  
21 represent the Aznarans and enter the case in June of  
22 1991?

14 23 A When it became apparent that the only  
24 means by which a miscarriage of justice was going to  
25 be avoided or aborted was my appearance for the

1 purpose of getting an extension of time so that the  
2 issue of their representation could be sorted out.

3 You want an exact date, I can't give you  
4 one.

5 Q How many days before you made the entry  
6 did you make that decision?

7 A I don't know.

8 Q Was it a week?

9 A I told you I don't know.

10 Q More than a week?

11 A I told you, I don't know.

12 THE REFEREE: It's not inappropriate to  
13 ask follow up questions to see if that refreshes  
14 recollection.

15 And your answer is you don't know. Let's  
16 go forward.

17 THE WITNESS: All times.

18 Q BY MR. DRESCHER: Did you look to any  
19 alternative other than Ms. Plevin in trying to find  
20 someone to represent the Aznarans in June of 1991?

21 A Yes, but it was tough to find many who  
22 hadn't been bought off already.

23 Q How many do you think the Church has  
24 quote unquote "bought off?"

25 A The ones you haven't scared off you

1 bought off.

2 Q How many is that?

3 A There is quite a few.

4 Q How many?

5 A I don't know.

6 I know Contos & Bunch.

7 There was another local firm whose name  
8 escapes me.

9 And I also knew that there was the  
10 frequent habit of sending out -- at least while I was  
11 a member of the staff representing the organization --  
12 of sending out what were known as hiring missions, so  
13 that whenever a spate of litigation was planned by the  
14 organization you would be hard pressed to -- whoever  
15 you were about to sue would be very hard pressed to  
16 find counsel.

17 When I say a hiring mission I mean about  
18 300 or 400 rice and bean fed members would then be  
19 sent out to interview almost every firm in the city of  
20 Los Angeles with respect to a particular suit, whether  
21 by way of plaintiff or defendant, and that way if  
22 somebody went to one of these firms it would be  
23 difficult, if not impossible, to get them to  
24 represent --

25 Buy off? I don't know, buy off is a

1 pretty tough term. It depends on if they were smart  
2 enough to ask for fees for the consultation that you  
3 obtain with the hiring mission or not.

4 Q Mr. Yanny, you say in paragraph 45 of  
5 your answer, over on page 15, starting line five:

6 "Furthermore, plaintiff's have entered in  
7 into numerous settlement agreements with many  
8 attorneys (e.g. the Flynn settlement agreements), and  
9 many of those settlement agreements have included  
10 illegal provisions restricting those attorneys from  
11 everything representing any clients with interests  
12 adverse to the plaintiffs herein," so forth.

13 A Where are you referring to?

14 MR. DRESCHER: Lines five through eight  
15 or nine on page 15, and the next page Mr. Yanny.

16 THE WITNESS: Paragraph 45?

17 MR. DRESCHER: Which continues onto page  
18 15.

19 I'm quoting your Verified Answer.

20 THE WITNESS: Five through what?

21 MR. DRESCHER: Five through the first  
22 word of 10. (Indicating)

23 THE WITNESS: Uh hum.

24

25

(Pause in proceedings.)

1 Q BY MR. DRESCHER: Have you read that?

2 A Yes.

3 Q How many?

4 A I couldn't even tell you.

5 As someone who had been consulted with  
6 respect -- I couldn't tell you.

7 Q As one who had been consulted with  
8 respect to what?

9 A To those settlement agreements.

10 I know that it was represented that all  
11 of the lawyers who were entering into the Flynn  
12 settlement agreements were required to agree not to  
13 take cases at that time. And I had put that to the  
14 president of Religious Technology Center who was then  
15 my client --

16 MR. DRESCHER: I move to strike the  
17 remainder of the answer.

18 A And she indicated --

19 THE REFEREE: I think he can complete  
20 what he believes the answer to be and you can strike  
21 it when I hear the whole thing.

22 MR. DRESCHER: I asked him how many.

23 A -- and she indicated that she was a  
24 signatore to those Flynn agreements, including the  
25 Armstrong agreement.

1 Q BY MR. DRESCHER: You mean Vicki Aznaran?

2 A Yes.

3 I had advised her they were no good, that  
4 they were probably an obstruction of justice, and she  
5 should not be a party to them.

6 MR. DRESCHER: I move to strike  
7 everything after "I don't know."

8 THE REFEREE: Is there any number?

9 A I don't know.

10 But I know as late as 1988 Paul Morantz,  
11 who was then representing Bent Corydon, was told  
12 precisely that by Larry Heller, that he, as everybody  
13 else would --

14 THE REFEREE: Thank you.

15 And the answer, the bulk of the answer is  
16 stricken. The answer really is number, but I don't  
17 know what number.

18 Q BY MR. DRESCHER: Where you refer to a  
19 "Flynn settlement agreement" in here, do you include  
20 Mr. Armstrong's settlement agreement with the Church  
21 with his case signed in December of 1986 among those?

22 MR. PARKER: Objection, that assumes he's  
23 seen the agreement.

24 MS. BARTILSON: He introduced it into  
25 this case. So I guess you saw it.

1           A           Not the entirety of it.

2                       Because there were three agreements that  
3   you didn't bother producing or putting into the  
4   record; the indemnification of Armstrong, Flynn and  
5   Cooley and Eberle by the Church.

6           Q           BY MR. DRESCHER: Do you include Mr.  
7   Armstrong's settlement agreement, which you entered  
8   into evidence in this case, to be among what you refer  
9   to as the "Flynn settlement agreement?"

10          A           It is one of the Flynn settlement  
11   agreements, yes.

12                      THE REFEREE: "Flynn agreement" is kind  
13   of a generic term?

14                      MR. DRESCHER: It's a term of art for  
15   this particular case. It's not a term of art like a  
16   Mary Carter Agreement.

17                      THE WITNESS: It may become one though,  
18   Judge.

19          Q           BY MR. DRESCHER: Did you make any kind  
20   of fee arrangements with the Aznarans for your  
21   representation of them in the beginning of June 1991?

22          A           I'm sure I did.

23          Q           What was it?

24          A           I don't recall.

25          Q           It's not in writing?

15           1           A           It probably was.

          2           Q           Do you have a copy of it?

          3           A           I should.

          4                    I don't know if I have it though.

          5           Q           Would you mind producing it for us

          6           informally?

          7           A           I think I would mind producing it

          8           informally, formally.

          9                    I think I would interject the

         10           attorney-client privilege in any event.

         11                    THE REFEREE: Are you asking me for a

         12           ruling?

         13                    MR. PARKER: The question was whether he

         14           would voluntarily produce it.

         15                    THE REFEREE: I think the answer was no.

         16           Q           BY MR. DRESCHER: Is the answer no?

         17           A           Yes.

         18                    THE REFEREE: Yes, the answer is no.

         19           Q           BY MR. DRESCHER: Did your office ever

         20           receive the Aznaran case file from Ford Greene?

         21           A           That's a tough one.

         22           Q           It's a yes/no?

         23           A           No, it isn't necessarily a yes/no.

         24                    It had been sent to Van Sickle who had

         25           refused to release it to my office. Eventually I

15 1 obtained that file, despite the protestations of  
2 others, and sent it up to John Elstead since I was  
3 actively interviewing other counsel to act as counsel  
4 for the Aznarans, knowing full well that I did not  
5 want, nor did I need this firefight.

6 So did I ever obtain it? It was turned  
7 over to representatives of my office, per my demand,  
8 and it was then transmitted up north. It never  
9 actually entered the premises of my building though.

10 Q Was it sent to John Elstead?

11 A John Elstead or Ford Greene. I can't  
12 remember which.

13 I take it back, it was John Elstead.

14 Q And Mr. Elstead made an appearance as  
15 counsel of record for the Aznarans at the time that  
16 you instructed that the file be sent to him?

17 A No.

18 Q It was before he had made an appearance  
19 as an associated counsel?

20 A Yes, but he was being consulted on  
21 whether he would come into the case. He certainly had  
22 to take a look at the file to figure that out.

23 Q Do you remember when Judge Edelman  
24 ordered that you cease being counsel of record for the  
25 Aznarans and ordered that Ford Greene be restored to

15           1       that position?

2                   A           What he did was order that the approval  
3       of my appearance in place of the Aznarans in persona  
4       propria be vacated and that the appearance of the  
5       Aznarans in persona propria in place and instead of  
6       Ford Greene also be vacated. And that Ford Greene was  
7       to be restored of counsel.

8                               There would be an order to show cause  
9       filed on or before a particular date, but the date  
10      that that order came down, I don't remember, I just  
11      don't want you mischaracterizing what the order said.

12                  Q           All I asked you is when it came down.

13                               Have you ever spoken to John Karesco  
14      about files you maintained in the Aznaran case to Ford  
15      Greene? (Phonetic)

16                               MR. PARKER: Objection, the question  
17      assumes that he maintained files on the Aznaran case.

18                               THE REFEREE: Just lay a foundation.

19                  Q           BY MR. DRESCHER: Mr. Yanny, did you  
20      maintain any files on the Aznaran case during the time  
21      that you represented them in June and July of 1991?

22                   A           During the period of time after my  
23      appearance in the Aznaran case until I left the  
24      Aznaran case I maintained files related to that  
25      representation.

15           1           Q           Did you ever speak to John Karesco about  
2           delivering those files to Ford Greene after your  
3           disqualification?  
4           A           First of all, I don't know that I was  
5           disqualified. The courts revoked the appearance sue  
6           spontae.  
7           THE REFEREE: After you were no longer  
8           counsel?  
9           A           John Karesco is a member of my office  
10          staff.  
11          I believe the privilege that applies with  
12          respect to me in the representation is attorney-client  
13          and also insofar as his assistance with respect to me  
14          insofar as the work product privilege is concerned  
15          goes from me to that employee.  
16          Whether I spoke to him about transmitting  
17          files or not, I believe, may fall within the scope.  
18          MR. DRESCHER: A couple of foundational  
19          questions?  
20          THE REFEREE: Go ahead.  
21          Q           BY MR. DRESCHER: Is Mr. Karesco a member  
22          of the bar in this state?  
23          A           I would have to ask him, but I don't  
24          believe so.  
25          Q           Is Mr. Karesco a paralegal?

1           A           I'm not going to characterize what he  
2 does. I'm not much into that nonsense.

3           THE REFEREE: Aren't we really talking  
4 about an an administrative or ministerial duty here,  
5 not something that involves anything other than a  
6 mechanical operation?

7           THE WITNESS: I don't know. The Judge  
8 asked me a question.

9           THE REFEREE: I am asking you a question  
10 to get your answer, because my state of mind, as you  
11 probably gather, is that this wasn't a professional  
12 function, this was closely akin to hiring a messenger  
13 service to do something if that's in fact what  
14 happened.

15           THE WITNESS: Just so the record is  
16 straight, John is a jack of many trades and a master  
17 of most. He does everything from legal research and  
18 writing for me, he does on many occasions do  
19 administrative work in the office as well.

20           THE REFEREE: From your country and mine  
21 you can use a race horse to pull a cart, and I'm  
22 saying was there an an occasion where you asked him or  
23 instructed him to deliver a file?

24           I think that's a question you can answer  
25 that's not an attorney work product or attorney-client

1 kind of problem.

2 THE WITNESS: I think John at one point  
3 in time after I left the Aznaran case was instructed  
4 to assemble my files and also the files that he had  
5 picked up from Van Sickle's office relating to the  
6 Aznaran case, to transport them up there, to help  
7 everybody open the boxes, sort through them, explain  
8 the contents of the files, make any copies that were  
9 needed so I could comply with my duty of protection  
10 with respect to myself and my right to copy files, and  
11 see to it that a smooth transition was made to new  
12 counsel and old friend revisited, Ford Greene.

13 Q BY MR. DRESCHER: To your knowledge did  
14 Mr. Koresco deliver those filings?

15 A I haven't heard any complaints, so I  
16 assume he did.

17 May I have a break for the restroom,  
18 Judge?

19 THE REFEREE: Yes, it's 3:45. Let's take  
20 a ten minute break.

21

22 (Recess taken 3:45 p.m. to 3:58  
23 p.m.)

24

25 Q BY MR. DRESCHER: Mr. Yanny, did you ever

16           1       have any discussions with C. Tony Wright at any time  
2           2       about replacing Ford Greene as the Aznaran's attorney?  
3           3               MR. PARKER: Wasn't that question  
4           4       previously asked?  
5           5               MR. DRESCHER: No, the previous question  
6           6       with Mr. Wright was any discussions Mr. Yanny had with  
7           7       him since the filing of this suit.  
8           8           A       I don't recall.  
9           9           Q       BY MR. DRESCHER: Do you recall having  
10          10       any communications with C. Tony Wright?  
11          11           A       Yes.  
12          12           Q       When was that?  
13          13           A       It was after the end --  
14          14               I'd only be guessing, but I think it was  
15          15       towards the end of Yanny 1. Maybe after Yanny 1 and  
16          16       related to either going sailing or skiing.  
17          17               And women.  
18          18           Q       In that order?  
19          19           A       Not necessarily in that order.  
20          20           Q       You don't recall any other communications  
21          21       you had with Mr. Wright?  
22          22           A       Actually no, now that you put it that  
23          23       way.  
24          24           Q       Mr. Yanny, let's change the subject I  
25          25       guess.

1 Have you had any communications at all  
2 with Karen McRae concerning the representation of the  
3 Aznarans and their case against the churches?

4 A I'm sure of it, yeah.

5 Q Any time since the breakfast meetings to  
6 which you referred?

7 A I'm sure of that too, yeah.

8 Q Was that a communication with Mr. McRae  
9 about Ms. McRae substituting in as counsel for the  
10 Aznarans?

11 A.

12 Q On how many occasions?

13 A A couple. Maybe a few.

14 Q About what time period?

15 A When they really needed a lawyer because  
16 Ford was gone and you guys had filed a summary  
17 judgment motion.

18 Q Did you have any discussions with her  
19 after Judge Edelman had ordered you out of the case  
20 and Ford Greene back into the case?

21 A I don't think so.

22 Q Just for the record, Ms. McRae is Ms.  
23 Aznaran's sister, is that right?

24 A Yes, and an attorney licensed to practice  
25 law in the State of Texas and also co-defendant with

16           1       myself in Yanny 1.

2           Q       Did you have, at any time from the first  
3       hearing about the first breakfast meeting 'til now,  
4       have any discussions with any other lawyers about  
5       representing the Aznarans, other than Ms. McRae?

6           A       Yes.

7           Q       Who?

8           A       Mr. rattlesnake bite himself, Paul  
9       Morantz.

10                   He was once bitten, twice shot.

11                   That's humor.

12                   MR. DRESCHER: I doubt he would find it  
13       funny.

14                   THE WITNESS: He actually did when I  
15       first said it.

16           Q       BY MR. DRESCHER: On how many occasions  
17       did you have such a discussion with Mr. Morantz?

18           A       A couple.

19           Q       When was it?

20           A       Right around the time they really needed  
21       a lawyer.

22           Q       Not later?

23           A       I don't think so. There was no need to  
24       after they had a lawyer.

25           Q       They had Ford Greene.

17           1                   The question is after Judge Edelman had  
2           2           ordered Ford Greene back into the representation did  
3           3           you have any discussions with Mr. Morantz about  
4           4           substituting in?

5           A           No, it wasn't my job.

6           Q           Did you have any discussions with any  
7           7           lawyer concerning representation of the Aznarans after  
8           8           Judge Edelman had ordered you out and Ford Greene back  
9           9           in?

10          A           Can I hear that back again?

11  
12                               (The record was read as follows:

13                   Q           Did you have any  
14                   discussions with any lawyer concerning  
15                   representation of the Aznarans after  
16                   Judge Edelman had ordered you out and  
17                   Ford Greene back in?)

18  
19          A           I don't recall.

20                   There were a couple other people that  
21                   didn't call though. I really didn't get chance to  
22                   finish my answer before you cut me off.

23          Q           BY MR. DRESCHER: Let me go back.

24                   I'm wondering about the period after  
25                   Judge Edelman had ordered you to cease your

17 1 representation of the Aznarans and in the same order  
2 ordered Ford Greene to come back into the case, did  
3 you make any efforts to find new counsel for the  
4 Aznarans?

5 MR. PARKER: Object to your  
6 mischaracterization of Judge Edelman's order.

7 THE REFEREE: The fact that a question is  
8 put a certain way doesn't mean it literally should be  
9 taken that way.

10 MR. PARKER: Tell yourself that Your  
11 Honor. He doesn't need to characterize the order to  
12 ask the question.

13 That's a dig.

14 THE REFEREE: We're all talking about the  
15 same order. Everybody has his idea of what the order  
16 is. The order in question.

17 After that did you solicit any attorneys  
18 to represent the Aznarans?

19 THE WITNESS: Is this the question?

20 THE REFEREE: That's my question, yes.

21 I think I'm paraphrasing Mr. Drescher's  
22 question, but yes, that's the question.

23 THE WITNESS: I don't believe so.

24 In other words, I don't believe that I  
25 solicited, after that point in time -- after the time

17 1 that Ford Greene came back in the case, the Aznaran  
2 case -- I don't believe that I did much in the way of  
3 anything. And I certainly didn't solicit other  
4 counsel.

5 Q BY MR. DRESCHER: Let's focus on the time  
6 that you've already identified when you had such  
7 discussions with Ms. McRae and Mr. Morantz.

8 Ms. McRae declined to come into the case  
9 on behalf of her sister and brother-in-law?

10 A She needed local counsel and she would  
11 have needed somebody to make an appearance for her pro  
12 hoc vice.

13 I may have also talked to Toby Plevin  
14 during the same time.

15 Q Was Ms. McRae's only reason for declining  
16 to represent her sister and brother-in-law the need  
17 for a local counsel?

18 A You'd have to ask her.

19 MR. PARKER: Objection, that calls for  
20 speculation.

21 Q BY MR. DRESCHER: Did Ms. McRae convey to  
22 you any reason for declineing to represent Vicki and  
23 Richard other than the need for a local counsel?

24 A Without somebody local it would be almost  
25 inordinately expensive for her to engage that

17 1 representation, considering the nature of your  
2 litigation tactics.

3 Q The question was did she convey to you  
4 any reason other than the fact that she would need  
5 local counsel?

6 A I just gave you another reason.

7 THE REFEREE: Is that what she said to  
8 you?

9 A The rules are obvious.

10 THE REFEREE: We all know the rules, but  
11 the question is what did she say to you, if you  
12 recall, about why she wasn't going to take it on?

13 A That's basically what I remember, without  
14 local counsel she could not remain pro hoc vice.

15 Q BY MR. DRESCHER: You don't recall any  
16 other reason, do you?

17 A She just had a baby and she was busy  
18 being a mom on a fairly full-time basis, and  
19 practicing law as full-time in addition to that as she  
20 could.

21 She had gone through some reorganization  
22 in a business practice as a result.

23 Q You mentioned that you had contacted Ms.  
24 Plevin --

25 A Yes.

1 Q -- with respect to try to find  
2 representation for the Aznarans?

3 A Yes.

4 Q Sometime during June of 1991?

5 A June. Maybe July. The lapse over.

6 Q Even after you had made an appearance on  
7 behalf of the Aznarans?

8 A Of course.

9 All I tried to do was to get a  
10 continuance in the Aznaran case, of the summary  
11 judgement motion so that the matter of representation  
12 could be sorted out, one and two, in case they could  
13 not find other counsel I could get the files and get  
14 no other --

15 Q You took no other action while you were  
16 counsel of record other than that?

17 A Not a thing.

18 Q You did discuss with Ms. Plevin coming in  
19 on behalf of the Aznarans?

20 A Yes.

21 Q On how many occasions?

22 A Quite a few.

23 Q How many?

24 A Six or --

25 Q During June or perhaps July?

17 1 A Yes.  
18

2 Q Did Ms. Plevin decline?

3 A Yes.

4 Q Why were you consulting with other  
5 lawyers to represent the Aznarans?

6 A Why was I? Because I was counsel of  
7 record.

8 Q So you're only talking about the period  
9 of time when you were counsel of record when you were  
10 trying to hunt down other counsel for them?

11 A I'd also been consulted by these people.  
12 And once I had been consulted I felt in some respects  
13 I was on the hook.

14 As an officer of the court your first  
15 duty is to the courts. And if you've got to do  
16 something to prevent a miscarriage of justice like  
17 somebody taking advantage of people being in persona  
18 propria, try to win an easy verdict by default, you do  
19 what you have to. And that was all I was doing.

20 I asked for an extension of time as a  
21 courtesy from Jack Quinn. He refused.

22 I went in ex parte to get an extension of  
23 time to respond to the summary judgement motion, you  
24 filed three of them as it turned out -- summary  
25 judgement motions -- and I requested, made ex parte

1 application to continue each of them.

2 And during that entire period of time I  
3 was looking for other counsel so you didn't get a  
4 cheap and dirty win and these people got their day in  
5 court and the worst you had to do was face the facts  
6 in front of a trier of fact.

7 Q Did Ms. Plevin decline?

8 MR. PARKER: Asked and answered.

9 A I think he said she declined.

10 Q BY MR. DRESCHER: Did she convey to you  
11 any reason for her declination?

12 A Yes, she did.

13 Q What was that?

14 A That she didn't want to do anything that  
15 would disrupt the Corydon settlement.

16 That if, which even though the settlement  
17 discussions began in May, didn't end up getting  
18 consummated until December, and then by order of the  
19 court as I understand. So that was a disincentive.

20 And also that she had very limited trial  
21 experience and unless somebody, I think she only maybe  
22 tried one case, and that was an unlawful detainer, a  
23 retainer case out there in Riverside against you, in  
24 which she won. Aside from that I don't think she had  
25 much in the way of trial experience.

1 And if the matter had to go to trial it  
2 was on a very short leash at the time. I believe you  
3 were scheduled for trial within a matter of a couple  
4 months. She would not be in a position to do it.

5 And she also stated that she would only  
6 come in if Van Sickie came back in. She and Van  
7 Sickie had worked out a deal whereby they were working  
8 on stuff against Scientology.

9 Q Prior to your being informed by Mr. Van  
10 Sickie about the breakfast meeting, how many  
11 discussions with the Aznarans had you had, if any,  
12 concerning your coming into their case to represent  
13 them in front of Judge Edelman?

14 A You're talking about prior to the end of  
15 the Yanny 1?

16 Q No, since the Yanny 1. February 28, 1991  
17 I believe is when the judgment became final. I'm  
18 going by your answer.

19 From the entry of the final judgment in  
20 the Yanny 1 until the first, you first heard from Van  
21 Sickie about the breakfast meeting, how many  
22 discussions with the Aznarans did you have about you  
23 representing them in front of Judge Edelman in that  
24 case?

25 A I don't believe any.

1 Q Did they ever ask you to?

2 A I don't recall.

3 Q Did you ever suggest to them that you  
4 could?

5 A I don't believe so.

6 Q Did you ever make any suggestion to  
7 anyone that you could represent the Aznarans after the  
8 entry of the final judgment in Yanny 1?

9 MR. PARKER: The question is overbroad.  
10 It includes his counsel?

11 Q BY MR. DRESCHER: Let's exclude your  
12 counsel.

13 A I don't recall, although it is my belief  
14 that I could have.

15 Q It was your belief that you were not  
16 disabled from representing them?

17 A You're right.

18 At this point the record, as it stands  
19 the disqualification is an equitable proceeding and I  
20 don't believe you people stand in any stead to seek  
21 equity in that regard. But that aside.

22 Q When is the first time you ever heard the  
23 name "Gerald Armstrong?"

24 A Isn't there a guy in one of those  
25 Rocketeer movies?

18 1 I really couldn't recall to be honest  
2 with you.  
3 Q When did you first meet Gerald Armstrong?  
4 A What do you mean by "meet?" Introduced  
5 to?  
6 Q Sure.  
7 A Probably the early part of, maybe late  
8 part of '89.  
9 Q Who introduced you?  
10 A Bent Corydon.  
11 Q Where?  
12 A In a courthouse.  
13 Q Which one?  
14 A The one that Bent saw his happy day.  
19 15 MR. PARKER: I guess that's ambiguous.  
16 Are you talking about Superior Court?  
17 THE WITNESS: Yes.  
18 Q BY MR. DRESCHER: When you were counsel  
19 for any of the Churches of Scientology were you ever  
20 given briefings on Armstrong's litigation with the  
21 Church?  
22 A Yes.  
23 Q By whom?  
24 A Marty Rathbun.  
25 David Miscavige.

1                   There were -- let's see --  
 2                   Greg Ryerson.  
 3                   Vicki Aznaran and people under Vicki as  
 4           President of the Religious Technology Center, and  
 5           within her command.

6           Q       Any names come to mind of those?

7           A       Ryerson.

8           Q       You mentioned him.

9                   Other than Rathbun, Miscavige, Ryerson  
 10          and Vicki, who would you characterize as "people under  
 11          Vicki?"

12          A       I said Ryerson. I know I already  
 13          mentioned him.

14                   Let me see here. Probably, I believe her  
 15          name last -- I knew it -- was Joyce Van Dyke. I can't  
 16          remember what her other name was prior to that.

17          Q       How about McShane?

18          A       I don't know that McShane really told me  
 19          much about the Armstrong case. I believe he was out  
 20          getting his mind right in the desert.

21          Q       Let me ask you this then.

22                   To the best of your knowledge as you sit  
 23          here are those the names of people who gave you  
 24          information about the Armstrong case from the Church?

25                   Are those the ones you can come up with

1 now as you sit here?

2 A Who is that Australian kid, Allan  
3 Cartwright.

4 Q Anybody else?

5 A Not necessarily under Vicki.

6 Perhaps McShane. McShane really wasn't  
7 under Vicki, he was sort of laid in on a special label  
8 under ASI. He held a position called Legal Affairs  
9 Manager.

10 Q Do you recall anyone other than the ones  
11 you already named who briefed you on the Church's  
12 litigation with Mr. Armstrong?

13 A McShane wasn't under Vicki.

14 Q Anyone else that you answered. I'm not  
15 asking about --

16 A But we were. Earle Cooley may have said  
17 a thing or two or three.

18 Brief me on -- this is the part --  
19 Armstrong litigation, do you include the settlement?

20 Q Sure.

21 A There were a couple other people whose  
22 names don't come to me that were in the "Armstrong  
23 unit" as it was called.

24 There was another person that briefed me  
25 on an Intel level about some of the dirty ops that had

1       been worked on Armstrong. Her name was -- give me a  
2       second.

3                       Her name escapes me, but she was head of  
4       Intel up on the fourth floor. And she debriefed me on  
5       some of the things that had been done to Armstrong.

6               Q       Anybody else?

7               A       Such as beating him up in Boston.

8               Q       The question is, Mr. Yanny --

9                       THE REFEREE: Just who.

10              A       You let me think about that a while and I  
11       will come up with the rest of the names. Right off  
12       the top of my head I can't.

13              Q       BY MR. DRESCHER: Let me ask you a couple  
14       other questions.

15                      Is this all one briefing or one session?

16              A       A couple of 'em.

17              Q       About how many?

18              A       There was the briefing I got up in  
19       Portland.

20              Q       How many?

21              A       I'm trying to count 'em off.

22              Q       Count to yourself and just give me a  
23       number?

24              A       Why don't you just let me count my own  
25       way?

19 1 THE REFEREE: Alright gentleman, it's  
2 getting late in the day and we're all getting a little  
3 tired.

4 A There was the one newspaper in Portland.  
5 That was given by Miscavige, Rathbun,  
6 Vicki Aznaran, Earle Cooley, during the  
7 cross-examination of Mr. Armstrong during the  
8 Christopherson trial.

9 And prior thereto.

10 You want to know what they involved?

11 Q BY MR. DRESCHER: No, I just want to know  
12 how many?

13 A There was one actually prior to that.  
14 That involved review of Breckenridge's intended  
15 decision, the memorandum of decision, whatever it was  
16 called.

17 THE REFEREE: Memorandum of intended  
18 decision probably.

19 THE WITNESS: Yes, sir.

20 A Nice piece of work. Vicki Aznaran  
21 briefed me on that. And discussed it with me.

22 I'm missing a couple, but there was some  
23 towards the end regarding the settlement discussions  
24 and the secrecy provisions and the silencing  
25 provisions and the withholding of the entirety of the

9 1 evidence or the entirety of the record from Judge  
2 Breckenridge, and not putting all of the agreements  
3 into one agreement and the maintenance of a fraudulent  
4 appeal.

5 Those were given to me by Marty Rathbun,  
6 David Miscavige and Vicki Aznaran.

7 Q In person?

8 A In -- face-to-face.

9 They certainly wouldn't talk about a  
10 thing like that on the phone.

11 Q All of these were face-to-face?

12 A Yes.

13 And then there were very small things  
14 during the course of time. How we were going to fit  
15 in a deposition here and there.

16 That would have been given by the  
17 underlings, people under Vicki.

18 Earle would have been, Earle Cooley would  
19 have been involved in some of those discussion towards  
20 the time of the settlement, because he was very  
21 heavily involved in that.

22 Q A total of maybe 10 to 12 such sessions?

23 A I wouldn't want to speculate.

24 Q You've identified particular ones, but as  
25 to the last one you said there were various smaller?

1           A           I didn't say that. I said between.

2                       Those are the major ones that come to  
3 mind right now. Those were the people that were  
4 involved, and there were smaller ones between the  
5 beginning ones and the last one, which was the  
6 settlement agreement.

7                       Linda Hammel that was head of Intel. She  
8 was the chief controller of most of the intelligence  
9 all over the world from right there on the fourth  
10 floor of the blue building. She briefed me on some  
11 post settlement things, what Armstrong was doing, who  
12 he was seeing, who he was making phone calls to.

13           Q           You can't give a number actually of how  
14 many total?

15           A           No.

16           Q           What were the circumstances concerning  
17 your first meeting with Jerry Armstrong in 1989 at the  
18 L.A. Superior Court?

19           A           I really don't understand what you mean  
20 by that.

21           Q           Why were you there?

22           A           It's a public courthouse.

23           Q           Did you have any particular reason to be  
24 there that day, to your recollection?

25           A           I may have had a few to be there that

1 particular day.

2 Q Did Mr. Armstrong explain to you why he  
3 was there that day?

4 A Did he what?

5 Q Explain to you why he was there that day?

6 A Not that I recall.

7 Q Did Mr. Corydon explain to you why Mr.  
8 Armstrong was there?

9 A Not that I recall.

10 Q Was anyone else present other than you,  
11 Mr. Armstrong and Mr. Corydon when Mr. Armstrong was  
12 introduced to you?

13 A Perhaps Toby Plevin.

14 That's not to say I hadn't seen Jerry  
15 Armstrong before that time. I had never been formally  
16 introduced.

17 Q Where did you see him before that?

18 A The first time I saw him was on a stand  
19 in the Christopherson trial, which would have been  
20 early '85 if I'm not mistaken.

21 Q Are you a member of Mr. Armstrong's  
22 Church?

23 A Yes.

24 Q What's the name of the Church?

25 A I only know it by the Church.

1 Q Do you know any other name for it other  
2 than "the Church?"

3 A No.

4 By the way, you guys ordained him as a  
5 minister.

6 Q Has his church ever ordained him as a  
7 minister, to your knowledge?

8 A That's like saying who made the Pope the  
9 Pope?

10 Q That is like saying who made the Pope the  
11 Pope?

12 A Yeah.

13 Q He founded the Church in other words?

14 A Yeah.

15 He was an ordained minister of the Church  
16 of Scientology. He broke off from the Church of  
17 Scientology, and it's my understanding he formed his  
18 own Church.

19 Q When did he do that, do you have any  
20 idea?

21 A Probably at or about the time he  
22 discovered Hubbard was a fraud and ran off with all  
23 those documents you sued him for taking.

24 Q When did you first become a member of  
25 Armstrong's church?

1           A           Shortly after I met him.

2                       He's a very spiritual kind of fellow. I  
3 was very much impressed with him. His karma, his  
4 beliefs, his principles.

5           Q           How do you become a member of his church?

6           A           You pay a lot of dues first.

7           Q           Are there any specific entrance  
8 requirements, rules that you're aware of?

9           A           That you should honor other people's  
10 humanity.

11                      That you believe in a power greater than  
12 yourself.

13                      That you be honest your dealings.

14                      And that you realize that you are but a  
15 trusted servant of something more important than you  
16 are.

17                      That you be dignified in your dealings,  
18 both to yourself and with others.

19                      That you respect property rights but you  
20 do not obsess on them.

21                      That you respect vows and oaths given.

22                      And that you act in unison with nature  
23 and attempt always to do the most amount of good and  
24 least amount of harm in the process of whatever it is  
25 that you do.

1 Q Are those precepts written down anywhere?

2 A In the hearts of the people that  
3 understand them.

4 Q How about on paper?

5 A I don't read well anyway.

6 Q Do you know where those precepts that you  
7 just described for the Armstrong Church are recorded  
8 anywhere in writing?

9 A I don't personally know. But I'm sure  
10 they are.

11 They're not all original.

12 Q Religious practice.

13 What religious practices, if any, have  
14 you taken part in as a member of Armstrong's church?

15 A Counseling.

16 Q Anything else?

17 A Meditation.

18 Q Anything else?

19 A And instead of running around poles we  
20 tend to run in straight lines for long distances.

21 Q Long distance running?

22 A Yes.

23 Q Any other religious practices?

24 A I really am feeling very uncomfortable  
25 discussing my religious beliefs and my religious

1 practices.

2 I don't believe any court has the right  
3 to in any event look into my religious beliefs or my  
4 religious practices. And I've gone along with it this  
5 far.

6 Q I'm not going to ask you to go much  
7 further.

8 I just want to know if you're still a  
9 member of Mr. Corydon's church?

10 A Yes.

11 Q What's the name of that?

12 A I think it's called the Life Arts Church.  
13 Although not so much anymore. He's gone into a period  
14 of more, you might say, self-introspection as opposed  
15 to counseling to the public as much as he used to  
16 since the settlement agreement.

17 Although he did perform a wedding a  
18 couple weeks ago, I know that. On February 29th  
19 actually.

20 Q Have you ever received any pastoral  
21 counseling from Jerry Armstrong, yes or no?

22 A Yes.

23 Q When was the last time you received  
24 pastoral counseling from Bent Corydon?

25 A Oh, I'm going to object on the basis of

1 priest-penitent privilege at this point in time. I'm  
2 not going to waive that.

3 MR. DRESCHER: Here's the problem. The  
4 injunction in Yanny 1 prevented Mr. Yanny from  
5 representing the Aznarans and Mr. Corydon against his  
6 former clients.

7 During the course of that litigation Mr.  
8 Yanny became a member of Mr. Corydon's Church and  
9 began asserting priest-penitent privileges which were  
10 upheld.

11 Now when come to Yanny 2 and the  
12 preliminary injunction addresses the Aznaran's and Mr.  
13 Armstrong, now he's a member of Mr. Armstrong's  
14 Church. We will go to the source of the exploring the  
15 priest-penitent privilege with respect to Mr.  
16 Armstrong. I think I'm entitled to know this.

17 MR. PARKER: After the injunction to  
18 which Mr. Drescher refers to in Yanny 1 was denied,  
19 this is not a claim that was asserted for the first  
20 time. That assertion was upheld.

21 THE WITNESS: It was also asserted in the  
22 Mayo case, and upheld.

23 MR. PARKER: In any event, the foundation  
24 for the assertion of privilege has been laid.

25 We do assert the privilege and we think

1           1       it lies ill in the mouth of the so-called Church of  
2           2       Scientology, questioning religious principles of other  
3           3       people.

4                       MR. DRESCHER: I asked him the last time  
5           5       if he was counseled by Corydon.

6                       MR. PARKER: That was part of the  
7           7       priest-penitent privilege.

8                       You don't ask somebody the last time they  
9           9       took communion.

10                      THE REFEREE: I'll sustain the objection.

11           Q       BY MR. DRESCHER: Mr. Yanny, are you a  
12           12       minister in Mr. Armstrong's Church?

13           A       Although I don't necessarily feel myself  
14           14       worthy in that regard, I think I have been referred to  
15           15       in that regard in a number of occasions, although I  
16           16       have a lot to learn before I reach the level of  
17           17       spiritual enlightenment that Mr. Armstrong has.

18           Q       Are you a minister in Mr. Armstrong's  
19           19       Church?

20                      THE REFEREE: I think he answered that.

21           A       (No response)

22           Q       BY MR. DRESCHER: Have you provided  
23           23       religious counseling to Mr. Armstrong, yes or no?

24           A       Yes.

25           Q       Mr. Yanny, have you ever hired Jerry

1 Armstrong to work for you or your professional  
2 corporation as a paralegal?

3 A I think there was an attempt to do that.

4 Q When did that attempt take place?

5 A Probably June or July 1991.

6 Q You attempted to hire Mr. Armstrong to  
7 work for you as paralegal?

8 A Yes.

9 Q Did you succeed?

10 A For a brief period of time I believe I  
11 did.

12 His services became unnecessary and he  
13 was not -- I may in the future, however, rehire him as  
14 a paralegal in my office to work on many and  
15 assorted -- he has quite good experience as I  
16 understand it, in assisting in rather complex and  
17 troublesome litigation.

18 Q So for some brief period of time in June  
19 or July of 1991 Mr. Armstrong did work as a paralegal  
20 for you?

21 A I don't know at present whether he did or  
22 he didn't.

23 I remember there was an attempt and he  
24 may have given some assistance. There was some  
25 preliminary ground work laid for it. He certainly was

1 consulted in that regard, yes.

2 Q You were seeking to hire him to be a  
3 paralegal for your firm, working on the Aznaran case,  
4 weren't you?

5 A Yes. I may still hire him as a paralegal  
6 in my office.

7 Q But back in June or July you hired him to  
8 serve as a paralegal with respect to the Aznaran case,  
9 didn't you?

10 A "Hired" is the tough question.

11 I didn't even take labor law. I think  
12 that's asking me for a legal conclusion that I'm not  
13 necessarily qualified to answer.

14 Q Did Mr. Armstrong perform any services  
15 for you or your professional corporation as a  
16 paralegal during the time you represented the Aznarans  
17 as counsel of record?

18 A You know, I don't currently recall.

19 Q Did Mr. Aznaran -- Mr. Armstrong provide  
20 any paralegal services with respect to the Aznaran  
21 case in any way, shape or form, to your recollection?

22 A I don't recall.

23 Q Do you recall any type of work that Mr.  
24 Armstrong performed as a paralegal in connection with  
25 your offices?

1           A           That's tougher.

2                   I certainly had him listen to some phone  
3       conversations so that people couldn't be asked about  
4       them later. And he certainly did give me some  
5       declarations about some facts that were essential to  
6       oppose your motion to disqualify me in the Aznaran  
7       case and your motion for a preliminary injunction in  
8       my case. "My case" being Yanny 2, the one that brings  
9       us here this happy day.

10           Q           What telephone conversations with Mr.  
11       Armstrong present?

12           A           One was Van Sickle.

13           Q           When was that?

14           A           I don't remember the date.

15           Q           Approximately what time of year was it?

16           A           At the relevant time of year.

17           Q           June or July of 1991?

18           A           To the best of my recollection. You've  
19       got the declaration.

20           Q           Any others?

21           A           Excuse me?

22           Q           Any others other than the one to which  
23       you're referring?

24           A           Any other declarations?

25                   Any other declarations Jerry has given

2 1 me?

2 Q Any other telephone calls other than the  
3 one with Mr. Van Sickle that's referenced in my  
4 Armstrong's declaration?

5 A I don't know. Off the top of my head I  
6 can't remember.

7 Q Do you recall anyone else being on any  
8 telephone call between you and Mr. Van Sickle in June  
9 or July of 1991 other than the instance you have  
10 testified about with Mr. Armstrong and the instance  
11 you testified earlier with the Aznarans, to your  
12 knowledge?

13 A Not that I presently recall. But if I do  
14 I'll let you know.

15 Q Has Mr. Armstrong ever furnished you with  
16 any documents concerning any Church of Scientology  
17 other than the matters which you have filed in this  
18 case?

19 A Could I hear that back please?

20 ///

21

22

23

24

25

(The record was read as follows:

Q Has Mr. Armstrong ever

furnished you with any documents

concerning any Church of Scientology

other than the matters which you have

filed in this case?)

A I really don't understand your question.

Q BY MR. DRESCHER: Putting aside the

documents that have been filed in this case that you

received from Mr. Armstrong, such as his declarations,

has Mr. Armstrong ever furnished you with any

documents concerning any Church of Scientology?

A Give me that back again.

(The record was read as follows:

Q BY MR. DRESCHER: Putting

aside the documents that have been filed

in this case that you received from Mr.

Armstrong, such as his declarations, has

Mr. Armstrong ever furnished you with any

documents concerning any Church of

Scientology?)

A As I understand the question, I don't

1 think so.

2 Q BY MR. DRESCHER: Have you ever provided  
3 Mr. Armstrong any documents concerning the Aznaran  
4 case?

5 A That's a tough question.

6 He eventually became a paralegal in Ford  
7 Greene's office and I transmitted documents to Ford  
8 Greene's office after he was ordered back into the  
9 Aznaran case. I really don't know who those documents  
10 were turned over to by my people.

11 Q So you're not sure?

12 A I would think that anything related to  
13 the Aznaran case that I had in my files I would have  
14 turned over to Ford Greene's office after he become  
15 counsel of record, directly to Jerry Armstrong.

16 I don't believe so. And not that I know  
17 of. Let me put it to you that way.

18 Q Have you ever provided Mr. Armstrong with  
19 any documents regarding any Church of Scientology?

20 A I don't believe so, no.

21 MR. DRESCHER: As Your Honor might  
22 understand, it's sometimes difficult riding this  
23 horse. I would like five minutes if I could, just to  
24 review this.

25 THE REFEREE: Alright. It's about 20

2 1 minutes of 5:00.

2 Do you have a feel about how much longer  
3 you might be?

4 MR. DRESCHER: That's part of what I'm  
5 trying to determine.

6 THE REFEREE: Okay, let's take five.

7  
8 (Recess taken 4:40 p.m. to 4:55  
9 p.m.)

10  
11 Q BY MR. DRESCHER: Mr. Yanny, when is the  
12 last time you received religious counseling from Mr.  
13 Armstrong?

14 MR. PARKER: You asked that question,  
15 didn't you?

16 MR. DRESCHER: I thought I had too, but  
17 our notes say otherwise.

18 A I'm again going to object on the  
19 priest-penitent privilege.

20 THE REFEREE: Well, I just -- I find it a  
21 little hard to see how this is going to be very  
22 successfully explored, Mr. Drescher, in this tender  
23 area.

24 MR. DRESCHER: I only ask it because it  
25 was allowed as to Mr. Corydon.

2 1 MR. PARKER: No, it was not.

2 2 THE REFEREE: I don't think it was.

3 3 MR. PARKER: The question was when did

4 you last receive pastoral counseling from Corydon.

3 5 THE REFEREE: I think I sustained the

6 objection.

7 The state of the record is he has

8 received counseling from each of these gentleman.

9 MR. DRESCHER: And continues to.

10 THE REFEREE: He's not willing to say one

11 way or the other whether he continues to do so. Would

12 that be a fair characterization?

13 THE WITNESS: Yes, sir it would.

14 Q BY MR. DRESCHER: Mr. Yanny, have you had

15 any face-to-face or telephonic communications with Mr.

16 Armstrong concerning the Aznaran case?

17 A Any particular time frame?

18 Q Yes.

19 Let's say from the entry of final

20 judgment in Yanny 1 to the present.

21 MR. PARKER: Other than what he's already

22 testified to?

23 He mentioned the declaration.

24 MR. DRESCHER: Yes.

25 A Other than what I have testified to, I

3 1 don't believe so.

2 Q BY MR. DRESCHER: You indicated that you  
3 had made some efforts to obtain counsel for the  
4 Aznarans in the period of June-July 1991. You  
5 mentioned Mr. Morantz, Ms. McRae, Ms. Plevin.

6 Did you contact anyone other than those  
7 individuals?

8 MR. PARKER: He also mentioned Mr. Van  
9 Sickle.

10 MR. DRESCHER: He did in a different  
11 context.

12 Q BY MR. DRESCHER: Apart from Mr. Van  
13 Sickle and Ms. Plevin, Mr. Morantz and Ms. McRae, did  
14 you contact any other lawyer?

15 A I believe Charlie O'Reilly.

16 Q Do you remember approximately when you  
17 made that contact with Mr. O'Reilly?

18 A I didn't say. You said did I attempt to.

19 Did I contact Mr. O'Reilly? No.

20 Q You were unable to?

21 A I was unable to contact Mr. O'Reilly.

22 Q Anyone besides those five lawyers?

23 A I believe I contacted Juliea Dragojevic  
24 and attempted to contact Bruce Bunch, with Contos &  
25 Bunch.

1 Q You say you attempted to contact Mr.  
2 Bunch.

3 Were you unsuccessful?

4 A Yeah. Bruce didn't return the call.

5 Q What about Ms. Dragojevic?

6 A Ms. Dragojevic took my call.

7 Q Did you only have one call with Ms.  
8 Dragojevic?

9 A I may have had two.

10 The first one indicated that they were  
11 not willing to. As a result of the first one it  
12 became clear that they were not willing to take cases  
13 against Scientology and it became obvious that she had  
14 previous conversations with people wherein she  
15 represented as part of the Flynn settlements they were  
16 not permitted to.

17 And in the second conversation she was  
18 reluctant to talk about the matter and was not willing  
19 to give sworn statements regarding the nature of the  
20 agreement that had been reached with Contos & Bunch,  
21 except that yes, she does remember signing a  
22 settlement agreement or settlement agreements, and she  
23 remembers it being videotaped, and she remembered  
24 expressing to Bruce Bunch she had ethical qualms about  
25 it. But aside from that she did not remember much at

3 1 all.

2 Q Apart from those lawyers was there anyone  
3 else you contacted in the June-July 1991 period about  
4 representing the Aznarans?

5 A I don't remember if there was.

6 I may have called Vincent Bugliosi, but I  
7 believe he said -- it was either then or previously --  
8 he said he had already had his watch stopped once.  
9 That was enough.

10 Q You don't remember whether you contacted  
11 him in June-July?

12 A I don't remember that time or previously.

13 There may also have been a call to Mr.  
14 Georgiatis, who has since been sued by ya'all.

15 Q Did you speak with Mr. Georgiatis in the  
16 period of June-July 1991 about representing the  
17 Aznarans?

18 A I placed a call to. Did not make contact  
19 with.

20 He's in Pittsburgh.

21 Q Anyone else in that same period?

22 A Off the top I can't recall.

23 John Elstead.

24 Q He ultimately agreed to associate in on  
25 behalf of the Aznarans, did he not?

3 1 A I'm not sure what he agreed to do, but  
2 eventually became counsel.

3 Q For the Aznarans?

4 A It's my understanding.

5 Q Did you speak with Mr. Elstead  
6 personally?

7 A Met with him.

8 Q On how many occasions?

9 A I don't recall.

10 But I recall one we sat down at La  
11 Corandolina over on Olivera across from the federal  
12 courthouse. One of my favorite eating establishments.

13 MR. DRESCHER: They let you back in?

14 THE WITNESS: They did actually.

15 MR. DRESCHER: They have new owners.

16 THE REFEREE: Off the record.

17

18 (Discussion held off the record.)

19

20 Q BY MR. DRESCHER: You met with Mr.  
21 Elstead at La Corandolina?

22 A Yes.

23 They kept me outside.

24 Q When was that?

25 A Before I left the Aznaran case and Ford

3 1 Greene stepped back in.

4 2 Q Did Mr. Elstead agree to represent the  
3 Aznarans?

4 A That's tough.

5 I don't remember exactly what he agreed  
6 to do at that time.

7 Q Did Mr. Elstead ever agree to you, his  
8 agreement that he would represent the Aznarans?

9 A Yes.

10 Q How did he do so, in person, by  
11 telephone?

12 A By telephone.

13 Q Approximately when?

14 A I haven't the foggiest.

15 Q Were you still counsel of record for the  
16 Aznarans at that time?

17 A I don't recall.

18 Q I've got Elstead.  
19 Bugliosi.  
20 Georgiatis.  
21 Dragojevic.  
22 Bunch.  
23 Van Sickle.  
24 O'Reilly.  
25 Marantz.

1                   McRae.

2                   And Plevin.

3                   Any other lawyers you attempted to  
4                   contact to represent the Aznarans?

5                   A           I contacted a whole slew of 'em prior to  
6                   the Aznarans actually filing suit back in '88, as I've  
7                   previously testified. So -- I didn't bring down the  
8                   list of people.

9                   Q           I didn't ask about that.

10                  A           That said she didn't want to because she  
11                  had grandchildren and life was too short.

12                               And I didn't bother going through the  
13                   ones that said they had already been interviewed by  
14                   ya'all -- when I say "ya'all" I mean the  
15                   organization -- so they had potential conflicts of  
16                   interest.

17                               As I sit here right now I can't recall.  
18                   There was a brief period of time that was available to  
19                   do something. So -- otherwise our papers would have  
20                   been tarney as they say. (Phonetic)

21                               I do remember Elstead said he wanted to  
22                   look at the files first. That was important for him  
23                   to get the files so we tried to track the files down.  
24                   We tracked them to Van Sickle's office during the  
25                   period of time of the breakfast meetings.

4 1 Q So you started talking with Mr. Elstead  
2 during the period of the breakfast meetings?

3 A Those breakfast meetings, hell, they  
4 continued clear into December of last year, didn't  
5 they?

6 Q Is that right?

7 And what do you base that on?

8 A On Van Sickle's statements probably.

9 Q Probably? You're not sure?

10 A I'm almost positive.

11 Q So how many meetings were you told there  
12 were between June and December of 1991?

13 A I don't recall the number.

14 Q But you remember Van Sickle telling you  
15 they continued until what, December of last year?

16 A Hell Bill, they weren't all breakfast  
17 meetings. You and I sat down to dinner with Jack  
18 Quinn and Van Sickle ourselves one evening at  
19 Morton's.

20 Q So you're including a settlement meeting  
21 that we had at Morton's on a week night sometime in  
22 the fall, and the breakfast meetings?

23 A I don't remember if it was a week night,  
24 but I do remember we went there.

25 Q Did you --

4 1 A And there were discussions now that I  
2 think about it, by ya'all, regarding further meetings  
3 that had taken place, and also that further  
4 discussions were going to take place, and Quinn's  
5 comments that Corydon's case wasn't worth 1.3 million  
6 dollars. Remember? Although that you had agreed to  
7 pay that.

8 Q That was said at Morton's?

9 A Yes.

10 Once before you got there and once after  
11 you had your third drink.

12 Q What has that got to do with it?

13 A I don't recall.

14 Q What was I drinking?

15 A I don't recall. You had some trouble  
16 deciding what to order, so you suggested that the  
17 waiter bring whatever they thought was appropriate.

18 Q Do you recall settlement of that case  
19 being discussed at Morton's that night?

20 MR. PARKER: This case?

21 Q BY MR. DRESCHER: Yanny 2?

22 A Yes.

23 Q You do?

24 A Yes.

25 Q Do you remember, do you share my

4 1 recollection that basically the discussion of  
2 settlement was pretty much over by the time the salads  
3 arrived?

4 MR. PARKER: Your Honor, I object to  
5 discussions relating to settlement as privileged under  
6 1472 of the evidence code.

7 And they're certainly not relevant to any  
8 issues of liability and damages in this case, and I  
9 doubt seriously that you want to get into it.

10 THE REFEREE: What's your thought? I  
11 can't see that it can lead to anything.

12 MR. DRESCHER: The only question I asked  
13 him, Your Honor, was if he remembered whether  
14 settlement discussions were pretty much over by the  
15 time the salad course arrived. I don't know how that  
16 gets into content of it.

17 THE REFEREE: I don't either, but I'm  
18 going to sustain the objection.

19 MR. DRESCHER: The next question would  
20 have been Mr. Yanny talking about his IRS connection  
21 and the things he told him. We're right back there  
22 Your Honor.

23 You're standing by the earlier ruling?

24 THE REFEREE: Yes.

25 Q BY MR. DRESCHER: Did you participate in

4 1 any other breakfast club meetings, as you call them,  
2 other than the one at Morton's?

3 A I don't know necessarily that I  
4 participated in a breakfast club meeting.

5 5 That meeting that we had, the breakfast  
6 club meetings were discussed, the fact that others had  
7 occurred and the fact that continuing discussions were  
8 going to happen.

9 And also some of the details of the  
10 Corydon settlement were discussed by yourself, Mr. Van  
11 Sickle and Mr. Quinn in my presence. I don't consider  
12 what I participated in to be one of the breakfast club  
13 meetings.

14 Q Mr. Yanny, how did you first become aware  
15 that the Aznarans had substituted themselves in pro  
16 per in place of Ford Greene?

17 MR. PARKER: I think that question was  
18 previously asked and answered.

19 THE REFEREE: If it was I'm not sure of  
20 the answer. I have some recollection that there was  
21 testimony that it was from Mr. Van Sickle, but  
22 that's --

23 MR. DRESCHER: That was a different  
24 subject.

25 Q BY MR. DRESCHER: This one I'm asking

5           1       specifically how he became aware that they actually  
2       substituted themselves in pro per?

3                       THE REFEREE:  You can answer.

4           A        I'm not sure how exactly I first became  
5       aware.

6                       I became aware when there was a problem,  
7       that much I know.  And I had previously refused to  
8       testify, but I think the Aznarans had said to me --

9                       MR. PARKER:  He want to know the source  
10      of the information without regard to content.

11          A        It was either Van Sickle or the Aznarans.

12          Q        BY MR. DRESCHER:  Did the Aznarans ever  
13      ask you to enter the case as their counsel of record  
14      in the period of June 1991?

15          A        Yes.

16          Q        Which Aznaran?

17          A        I don't remember.

18          Q        Could it have been both?

19          A        It could have been.

20          Q        Was it done telephonically or in person?

21          A        It would have been telephone.

22          Q        Did they call you or did you call them?

23          A        I believe they called me.

24          Q        What was the substance of that  
25      communication, on the issue of you representing them?

5

1 MR. PARKER: Object, attorney-client  
2 privilege.

3 A I will join in the objection, preserving  
4 it for the Aznarans.

5 THE REFEREE: Sustained.

6 Q BY MR. DRESCHER: During the course of  
7 that telephone conversation in which the subject of  
8 your representing the Aznarans first arose, did you  
9 agree to do so?

10 A Let me say this, this is very delicate  
11 insofar as it involves attorney-client communications.

12 I will say this. The fact that I made an  
13 appearance in this case, substituting in in place of  
14 the Aznarans, had previously been prior to my  
15 appearance as pro per speaks for itself.

16 Q What time passed between the telephone  
17 call for the Aznarans and the time which you entered  
18 your appearance?

19 A I haven't the foggiest idea.

20 Q Was it more than a week?

21 A I just got done saying I didn't have the  
22 foggiest idea.

23 Q Was it more than two weeks?

24 A My answer doesn't change.

25 Q Was it more than a month?

5 1 A I'm not going to even bother.

2 THE REFEREE: I don't think this is  
3 profitable.

4 MR. DRESCHER: These are key points that  
5 the amnesia keeps occurring on.

6 THE REFEREE: That's the nature of life.

7 Q BY MR. DRESCHER: When you were making  
8 the phone calls, et cetera, you mentioned one person  
9 to me, that was with Mr. Elstead.

10 When you were calling Mr. Morantz, Ms.  
11 McRae, Ms. Plevin, attempting to reach Mr. O'Reilly  
12 and the rest, was that after that telephone  
13 conversation in which you had been asked to represent  
14 the Aznarans?

15 A I couldn't be certain of that. But it  
16 would have been at or about the same time, beginning  
17 at or about the same time that I first found out about  
18 the problem and the eventual finding of a solution.

19 MR. DRESCHER: Can I hear that back?

20 ///

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(The record was read as follows:

A I couldn't be certain of that. But it would have been at or about the same time, beginning at or about the same time that I first found out about the problem and the eventual finding of a solution.)

Q BY MR. DRESCHER: Over what period of time, to your recollection, did you make the contacts or attempted contacts with those lawyers?

A From the time I found out about the problem until the time that the problem was solved.

Q Did you find out about the problem from the Aznarans?

A Again, I tell you it was either first discovered through Van Sickle or the Aznarans probably.

I've already covered that. I really don't know.

Q Mr. Yanny, how did you come to represent Mr. Armstrong as his lawyer?

A In conversation --

Let me rephrase. After I met Mr. Armstrong he was a potential witness in Yanny 1. And

5           1       we also began to develop a personal relationship and  
2           2       also became friends. And he oftentimes visited my  
3           3       home, oftentimes stayed at my home when he was in  
4           4       town. He was a man of not many means and I didn't  
5           5       ever close my door to him. So he spent time at my  
6           6       home. When the need arose for him or the need arose  
7           7       for me.

8                       During the course of one or more of those  
9           9       visits the subject was broached regarding my specialty  
10          10       in intellectual property. And his potential need for  
11          11       intellectual property counsel since he was a writer  
6          12       and an artist amongst other things. And my potential  
13          13       availability for consultation. And my potential  
14          14       ability to service his needs as a client in that  
15          15       regard.

16               Q       When did this attorney-client  
17               relationship begin?

18               A       That calls for a legal opinion, but it's  
19               my opinion that it began at the first moment I was  
20               consulted in that regard by Mr. Armstrong.

21               Q       When was that?

22               A       I really couldn't tell you.

23               Q       Was it after the beginning of the Yanny 1  
24               trial?

25               A       It may have been before.

1           Q       Is it limited to your representation --  
2                    Have you served as an attorney for Mr.  
3       Armstrong in any thing other than intellectual  
4       property matters?

5           A       No.

6           Q       You said that Mr. Armstrong is a writer  
7       and an artist?

8           A       Um hum.

9           Q       What has he written?

10          A       Yes.

11                   I don't know. If I did I wouldn't tell  
12       you anyway, I would claim an attorney-client privilege  
13       if it had been conveyed to me.

14          Q       Have you ever seen -- yes or no, I'm not  
15       interested in anything about it -- have you seen any  
16       manuscripts --

17          A       This is delicate and I'm going to have to  
18       interpose the attorney-client privilege on behalf of  
19       Mr. Armstrong insofar as his literary works.

20                   THE REFEREE: Read the question back to  
21       us.

22       ///

23

24

25

1 (The record was read as follows:

2 Q Have you ever seen -- yes  
3 or no, I'm not interested in anything  
4 about it -- have you seen any  
5 manuscripts --)

6

7 MR. PARKER: I object, not only on the  
8 attorney-client privilege grounds, but it's simply not  
9 relevant whether he's seen manuscripts.

10 THE WITNESS: It's also vague.

11 THE REFEREE: Well, it's pretty vague.  
12 But whether or not it is -- again Mr. Drescher, I'm  
13 not sure that this leads down a path that can be  
14 followed. If he's seen the manuscript, yes or no, so  
15 what?

16 MR. DRESCHER: Well --

17 THE REFEREE: You can consult somebody on  
18 legal problems without overseeing any papers.

19 Q BY MR. DRESCHER: Let me rephrase it.

20 Have you ever seen a book called

21 Defendant's Appendix Mr. Yanny?

22 MR. PARKER: Objection, ambiguous.

23 A What?

24 THE REFEREE: With that title?

25 Q BY MR. DRESCHER: Yes.

1                   Have you ever seen a book or manuscript  
2           entitled Defendant's Appendix?

3                   MR. PARKER: Now the question is changed.  
4           A book and a manuscript, I think of them as being  
5           different.

6                   Q           BY MR. DRESCHER: Let's start with a  
7           manuscript entitled Defendant's Appendix?

8                   A           Can I hear that again?

9                                I don't know what you mean by  
10          "manuscript." If you want to ask me --

11                   Q           Have you ever seen any tangible item with  
12          the title Defendant's Appendix outside of a court of  
13          law?

14                   A           Outside of a court of law?

15                                Yes, I have.

16                   Q           Describe that object?

17                   A           That is something that was submitted in  
18          the court of appeals by Mr. Armstrong in the appeal  
19          that you all took of Judge Breckenridge's decision  
20          that Mr. Armstrong eventually won, and which resulted  
21          in a published opinion which included a number of  
22          exhibits.

23                   Q           You obviously don't understand the sense  
24          in which I intended.

25                                Mr. Armstrong has testified in deposition

6           1       that he has written a couple of books on Scientology.  
2           2       And is seeking to have them published.

3                     Are you aware of whether Mr. Armstrong  
4           4       has ever published a book on the subject of  
5           5       Scientology?

6           A        If I was and I got that information from  
7           7       my client I would object on the grounds of  
8           8       attorney-client privilege. Insofar as it relates to  
9           9       literary matters.

10                    THE REFEREE: If something is published  
11           11       it's hard for me to see how attorney-client privilege  
12           12       could come into it unless it's published anonymously.

13                    Do you know whether he's published such a  
14           14       book? You can answer that yes or no.

15                    THE WITNESS: I don't know that he has  
16           16       published any such book.

17           Q        BY MR. DRESCHER: Did Mr. Armstrong give  
18           18       you what he has characterized in his deposition as one  
19           19       of his written books entitled Defendant's Appendix?

20           A        I'm not aware of Mr. Armstrong's  
21           21       deposition testimony in that regard. And insofar as  
22           22       the question premise or premises in that regard, I  
23           23       don't really know how to answer that.

24           Q        Has Mr. Armstrong ever give you a copy of  
25           25       the book entitled Defendant's Appendix?

1 A I don't understand the question.

2 Q What about the question don't you  
3 understand?

4 A If I could tell you that I wouldn't  
5 have --

6 MR. PARKER: If it's not published then  
7 it's privileged. If it is published then I agree it  
8 is not privileged. But the word "book" --

9 THE REFEREE: "Book" can have more than  
10 one meaning.

11 Q BY MR. DRESCHER: Has Mr. Armstrong ever  
12 provided you with a copy of any of his writings, yes  
13 or no?

14 MR. PARKER: We objected to that before  
15 Your Honor.

16 It's overbroad in that it can include  
17 non-published works of a confidential nature.

18 Q BY MR. DRESCHER: Let me take a cue from  
19 Mr. Parker.

20 Has Mr. Armstrong ever given you a  
21 non-published work with the title Defendant's  
22 Appendix?

23 MR. PARKER: Objection, based on  
24 attorney-client privilege.

25 It's not probative of any issue in this

7 1 case.

2 A I don't know what's published, what's  
3 unpublished, and I don't know the context in which you  
4 mean "published, unpublished."

5 I really don't understand your question  
6 and I really can't answer it.

7 Q BY MR. DRESCHER: Have you ever  
8 represented Mr. Armstrong with respect to any literary  
9 matters of his concerning the Church of Scientology?

10 A The subject matter of Mr. Armstrong's  
11 literary works I will not get into based on  
12 attorney-client privilege.

13 MR. DRESCHER: I need a ruling on that.

14 THE REFEREE: Well, as you stated, that  
15 he's consulted you on literary legal problems, is that  
16 correct?

17 THE WITNESS: Yes, Your Honor, the  
18 general subject matter is no problem.

19 THE REFEREE: Have you given him advice?

20 THE WITNESS: Yes.

21 THE REFEREE: In this field?

22 THE WITNESS: Yes.

23 THE REFEREE: Mr. Drescher, can we really  
24 explore this further?

25 MR. DRESCHER: The only thing that I'm

7  
1 trying to explore is whether Mr. Armstrong has been  
2 representing by Mr. Yanny with respect to Mr.  
3 Armstrong's literary endeavors, yes or no, involving  
4 Scientology?

5 THE REFEREE: What does "represented"  
6 mean?

7 MR. DRESCHER: Has served as a lawyer who  
8 has provided intellectual property advice. He said it  
9 earlier today, he represented him in intellectual  
10 property matters.

11 I think, Your Honor, in that context the  
12 feining of not understanding a manuscript, not  
13 understanding a book is particularly indicative of why  
14 this question deserves an answer.

15 I'm not seeking to explore any  
16 communications between Mr. Yanny and Mr. Armstrong.  
17 All that I've asked is whether or not a particular  
18 book or manuscript with the title that Mr. Armstrong  
19 testified to in this case is one which Mr. Yanny has  
20 seen.

21 MR. PARKER: He already testified that  
22 didn't ring any bells. If you have a copy, show it to  
23 him.

24 THE REFEREE: I think that is the state  
25 of the testimony, isn't it?

1 MR. DRESCHER: I don't, Your Honor.

2 I think that when the issue becomes as  
3 clear as it has been from the beginning from the entry  
4 of the preliminary judgment in this case, where Mr.  
5 Yanny has represented Mr. Armstrong with respect to  
6 matters related to the Church, or substantially  
7 related to matters which Mr. Yanny represented the  
8 Church in the past, I think it's an incredibly  
9 overbroad view of the attorney-client privilege  
10 whether he's given him a book entitled a specific  
11 title to which Mr. Armstrong has already testified.

12 MR. PARKER: He asked him whether he was  
13 aware of a document called Defendant's Appendix. Mr.  
14 Yanny testified he thought he was aware of a document  
15 by that name filed in the court of appeal in  
16 connection with the Armstrong litigation.

17 He no sooner said that than Mr. Drescher  
18 said you obviously don't understand my question. We  
19 have been at it ever since. He told him the only  
20 document that matched that description. He wasn't  
21 satisfied with that answer.

22 Q BY MR. DRESCHER: Is that the only  
23 document that you're aware of that says that  
24 description as your counsel just put it?

25 A What?

Can I hear that please?

(The record was read as follows:

Q BY MR. DRESCHER: Is that

the only document that you're aware of

that says that description as your

counsel just put it?)

A I am so lost at this point as to what

you're asking about.

THE REFEREE: Alright.

Mr. Drescher, are we asking questions

concerning any material relative to the Church? Are

we asking questions relative only to the appendix

document, whatever it is?

MR. DRESCHER: I'm having Mr. Armstrong's

deposition transcript pulled so I don't misspeak.

Because I want to make sure we're absolutely clear on

this. I don't want to dwell any further on it if Mr.

Yanny doesn't have any knowledge.

(Discussion held off the record

between the deponent and counsel.)

MR. PARKER: Maybe while Mr. Ward is

7 1 looking for the deposition I can talk to the witness.

2

3

(Whereupon, the witness

4

and counsel left the deposition

5

room)

6

7

MR. DRESCHER: I'm not going to dwell on

8

this. What I have here is just a partial. I'm not

9

going, I don't think it's fair to rely strictly on a

10

digest.

11

I'm attempting to probe what I've read in

12

Mr. Armstrong's testimony concerning what Mr. Yanny

13

represented him in regard to whether it's literary

14

affairs of Mr. Armstrong related to Scientology or

15

not.

16

Mr. Armstrong has indicated he had asked

17

Mr. Yanny to represent him in certain literary matters

18

not related to Scientology. Mr. Armstrong denies that

19

he has asked Mr. Yanny to represent him in literary

20

matters related to Scientology.

21

Mr. Armstrong has testified that he gave

22

Mr. Yanny a copy of a written literary product

23

entitled Defendant's Appendix, earlier 1991, March or

24

April of '91, and Mr. Armstrong has testified that he

25

is unaware of why he has not discussed his literary

7 1 ventures regarding Scientology with Mr. Yanny as his  
2 lawyer.

8 3 I'm simply trying to probe that. I don't  
4 want to get into any matters based on my notes  
5 strictly and Mr. Yanny appears to have. Either he is  
6 not understanding what I'm saying, for design, or I'm  
7 simply not making myself clear on form.

8 I will deal with that.

9 THE REFEREE: Is it my understanding that  
10 this Director's Appendix (sic) whatever it is, was a  
11 part of a court record in an appeal?

12 MR. DRESCHER: No, I think -- the way I  
13 understand it Your Honor, Defendant's Appendix is a  
14 title of the book just as Witness for the Prosecution.  
15 That's all I have been trying to ask.

16 THE REFEREE: Is it a published book?

17 MR. DRESCHER: All I can go on is Mr.  
18 Armstrong's indication that it is not.

19 THE REFEREE: Alright.

20 Q BY MR. DRESCHER: So -- one question --  
21 have you ever seen a written product by Gerald  
22 Armstrong entitled Defendant's Appendix?

23 MR. PARKER: I object to the question on  
24 the grounds that it's been previously asked and  
25 answered.

1                   To the extent that he's inquiring about a  
2 document that has not been published and was given to  
3 him by a client who was consulting him on literary  
4 matters, it is not his privilege to disclose that  
5 information, even the fact of its existence is  
6 confidential to an artist or a writer. Mr. Armstrong  
7 is not represented here.

8                   THE REFEREE: We have been back and forth  
9 on this question two or three times.

10                  My recollection is that in response to an  
11 earlier question Mr. Yanny said something about  
12 something being incorporated as a part of a document  
13 filed with the court of appeal in some aspect of this  
14 dispute. These overall disputes.

15                  But other than that, I'll sustain the  
16 objection.

17                  MR. DRESCHER: I would -- I'll note that  
18 in light of the testimony given by Mr. Armstrong  
19 earlier and the fact that he will be back next week, I  
20 will explore it with him. But it may lead me to seek  
21 to reopen this deposition, depending on what Mr.  
22 Armstrong says.

23                  THE REFEREE: We'll sure mount that hill  
24 if and when.

25                  ///

(Discussion held off the record.)

1

2

3

Q BY MR. DRESCHER: Have you ever acted as Mr. Armstrong's attorney in any matter not involving intellectual property?

6

7

A Again, I'm going to have to interpose the attorney-client privilege.

8

9

The subject matter of my representation of Mr. Armstrong is a delicate thing. And I believe protected by the privilege.

10

11

THE REFEREE: Answer it yes or no please.

12

A To the best of my understanding, no.

13

14

Q BY MR. DRESCHER: On how many occasions, to the best of your recollection, has Mr. Armstrong been a guest at your home?

15

16

A I don't know.

17

18

MR. PARKER: That's really irrelevant. What does that have to do with this case?

19

20

MR. DRESCHER: What I'm trying to do, Your Honor, is try to isolate the point in time at which Mr. Yanny's attorney-client relationship with Mr. Yanny began.

21

22

23

24

THE REFEREE: I'm not sure this is a way to get to that. But let's go a little --

25

Q BY MR. DRESCHER: I believe you testified

1       that you're not sure when Mr. Armstrong first was a  
2       guest at your home, is that correct?

3           A       The exact date, no, I'm not sure.

4           Q       Can you give me a year?

5           A       No.

6                   I take that back, the first time Mr.  
7       Armstrong was a guest in my home was the very first  
8       time I met Mr. Armstrong.

9           Q       Sometime early or late 1989, is that  
10       correct?

11          A       No, it would have been sometime in late  
12       1989.

13          Q       From that first time he was a guest at  
14       your home, approximately how long before you first  
15       acted as his attorney?

16          A       I don't know how long he stayed there.  
17       He may have consulted me even during that first visit  
18       about some aspects of intellectual property,  
19       particularly as it related to graphics as opposed to  
20       textural intellectual property works.

21                   I'm talking about things like drawings,  
22       paintings. Ask him.

23          Q       If I might invite your attention to the  
24       Sixth Affirmative Defense in Exhibit 2, your amended  
25       answer.

8

1 THE WITNESS: Before we do this can I  
2 have a bathroom break?

3 THE REFEREE: Alright. Very brief.

4

5 (Recess taken 5:25 p.m. to 5:55  
6 p.m.)

7

8 Q BY MR. DRESCHER: Mr. Yanny, if I might  
9 ask you to look at page 12 of your amended answer?

10 A (Complying)

11 Q Particularly starting on the last line.  
12 It's the Sixth Affirmative defense: "Failure to  
13 Exhaust Other Remedies."

14 Mr. Yanny, what facts do you have  
15 personal knowledge to support the allegation you make  
16 in that Sixth Affirmative Defense?

17 MR. PARKER: I object to the form of the  
18 question. It's a question that calls for his legal  
19 conclusion as to what is or is not an available remedy  
20 which they failed to exhaust.

21 Secondly, I object that the question,  
22 literally construed, calls for my client to disclose  
23 theories and facts that we've defended and we've  
24 shared with him as our client in confidence, but which  
25 would violate the attorney work product privileges.

9           1                           On that basis I think the form of the  
2           2                           question is improper.

3                           MR. DRESCHER:  It's a verified answer.  
4           4                           Mr. Yanny has signed the verification on behalf of  
5           5                           both defendants.  And this is included in it.  I just  
6           6                           want his personal knowledge of the facts that he  
7           7                           contends supports this.

8                           MR. PARKER:  The verification doesn't  
9           9                           change anything.

10                           Obviously we hire lawyers because we  
11           11                           can't do some things ourselves.  This is my  
12           12                           responsibility and obviously I'm responsible for this  
13           13                           document.  Contention interrogatories is where you get  
14           14                           that information, not from a witness.  Even though he  
15           15                           may be a lawyer, that doesn't make him an expert in  
16           16                           these areas of law.

17                           THE REFEREE:  Well, sustained.

18                           And I gather that that representation,  
19           19                           that comment by counsel means that a contention  
20           20                           interrogatory would be responded to in detail and not  
21           21                           with any kind of objection or delay considering the  
22           22                           amount of time remaining before trial?

23                           MR. PARKER:  There is a judicial counsel  
24           24                           form interrogatory that is designed precisely for that  
25           25                           purpose.  For all I know you may have already served

9           1       it upon us.

2                   MS. BARTILSON: I'm not sure.

3                   MR. PARKER: If you haven't I'm not  
4       telling you any secret. We tried to be detailed, as  
5       you can see.

6                   MR. DRESCHER: I'm just surprised that  
7       someone, without shame, would admit that information  
8       was being fed to their clients on facts that he  
9       subscribes to, since there isn't going to be an  
10      objection to contention interrogatories concerning  
11      affirmative defenses, I wonder since today is the  
12      10th --

13                  MR. PARKER: We'll do it on an expedited  
14      basis. When I'm done taking your deposition we'll  
15      have a great deal more information that we will be  
16      able to share with you. It's a win/win proposition.

17                  MR. DRESCHER: I hate to ask Your Honor,  
18      three minutes to go over one thing with my client.

19                  MR. PARKER: Is 20 days acceptable?  
20      We'll get it to you tomorrow -- by the 31st.

21                  MR. DRESCHER: Yes.

22                  Q       BY MR. DRESCHER: Mr. Yanny, when was the  
23      first time you talked with Vicki Aznaran following the  
24      entry of judgment in the Yanny 1 trial?

25                  MR. PARKER: I believe that was asked and

1        answered. Try to do it again if you can.

2                A            I don't recall.

3                            It would have been at or about the same  
4        time the Judge --

5                            You're talking about the July, the thing  
6        really was one in July. The Judge came out with a  
7        decision on July 13, '90. After that it was all over  
8        but the hootin' and the hollerin'.

9                Q            Let's take July 13, 1990?

10              A            I'm sure I would have called her at or  
11        about the same time.

12              Q            To the best of your recollection between  
13        that call and June of 1991, on how many occasions did  
14        you speak with Ms. Aznaran, either in person or by  
15        phone?

16              A            I don't think many in person at all.  
17                            Phone, quite a few times.

18              Q            Can you give me approximate?

19              A            I really can't.

20              Q            Was it weekly?

21              A            It was on an as-needed basis as the need  
22        arose. I used their investigative services with some  
23        of my other clients.

24              Q            In the period from July 1990 to June  
25        1991, did you have any conversations with Ms. Aznaran

9           1       in which she sought your advice as a lawyer with  
2       respect to anything related to the Church of  
3       Scientology?

4           A       Say that again.

5           MR. PARKER: Could I hear it back?

6  
7                       (The record was read as follows:

8           Q       In the period from July  
9       1990 to June 1991, did you have any  
10      conversations with Ms. Aznaran in which  
11      she sought your advice as a lawyer with  
12      respect to anything related to the Church  
13      of Scientology?)

14  
15          A       To make it through May I can say most  
16      certainly not.

17          Q       BY MR. DRESCHER: We'll make it through  
18      May for now, the answer is "most certainly not?"

19          A       Uh hum.

20          Q       Is that a yes?

21          A       Yeah.

22          Q       So, did your first conversation with Ms.  
23      Aznaran concerning her legal situation with the Church  
24      in the Aznaran case arise after the first of what you  
25      characterize as the "breakfast meetings?"

9           1           A           I think I would have first talked to  
2           Vicki about her legal situation after you screwed her  
3           out of her lawyer, yeah, and she had a situation.

4           Q           Would that be after the first of the  
5           breakfast meetings?

6           A           Most certainly it would have been.

7           Q           Would it be after Barry Van Sickle first  
8           told you about the breakfast meetings you testified  
9           about?

10          A           Yes.

11          Q           So the first --

12          A           Bear in mind what I told you about the  
13          breakfast meetings was what was told to me about the  
14          meetings. The details of the discussions regarding  
15          her, Ford Greene's representation of the Aznarans  
16          and --

17                    Let me put it this way. You were  
18          approaching Van Sickle to settle the Aznaran case when  
19          you knew full well that the Aznarans were represented  
20          by other counsel, Ford Greene.

21                    And when you knew that Van Sickle had  
22          been disqualified from representing the Aznarans, I  
23          didn't find that out until later, until I realized  
24          that this was a problem.

25          Q           How much later?

1 A Whenever the problem arose.

2 Q What "problem" are you talking about?

3 A The Aznarans substituted themselves in  
4 persona propria, you cut off settlement negotiations  
5 and began to file summary judgement motions while they  
6 had no lawyer.

7 Q I am not clear from your answer on the  
8 sequence.

9 I've got three events in mind. I've got  
10 the first of the so-called breakfast meetings.

11 I have Mr. Van Sickle telling you about  
12 the breakfast meetings.

13 And I have Ms. Aznaran and the telephone  
14 conversation with you in which the subject of your  
15 representing her and her husband arose?

16 A Right.

17 Q In what order did those three events take  
18 place?

19 A The exact details of the fact that you  
20 had broached settlement of the Aznaran case with Van  
21 Sickle knowing that the Aznarans were represented by  
22 counsel came after the other two.

23 Q So as to the other two, which was first?

24 A Obviously the breakfast club meetings  
25 started on June 5 without my knowledge. Nobody called

10           1       me to ask permission.

2           Q       You now recall it's June 5?

3           MR. PARKER: That's what you represented.

4           A       That's what you represented and that's  
5       what Jack Quinn swore to in your declaration. And I  
6       think that's also what you swore to in your  
7       declaration.

8           Q       BY MR. DRESCHER: It's also what you  
9       swore to in your answer?

10          A       Whatever it is.

11                   I'm taking that date as a convention. At  
12       or about that time.

13          Q       You have no recollection of the time  
14       elapsed?

15          A       I'm sure your credit cards and billing  
16       sheets we will tell more correctly.

17          Q       You have no idea of what time elapsed  
18       between those first two events and the third event?

19          A       Let me put it to you this way, I believe  
20       that I found out that a problem had arisen sometime  
21       after you served the motion for summary judgement  
22       while they were in persona propria.

23                   And I believe if I'm not mistaken the  
24       proof of service board of date -- don't hold me to  
25       this -- but something like June 23 or so, at or about

10           1       that time. And I don't know when they got it and I  
2           2       don't remember exactly who I heard it from, but I knew  
3           3       there was trouble ahead and trouble behind.

4                   MR. DRESCHER: Off the record.

5  
6                               (Discussion held off the record.)  
7

8           Q       BY MR. DRESCHER: Around June 23, 1991 is  
9           the date that you associate with what?

10          A       June 23.

11                   The date I associate, it's my selective  
12          photographic memory. I remember seeing a proof of  
13          service or some sort, or a signature page. That was  
14          when there was service of a motion, the first of your  
15          barrage of three motions for summary judgement after  
16          the Aznarans went in persona propria.

17                   Don't hold me to those exact dates.  
18          Sometime around there, between there and the date of  
19          my appearance I would have become aware of the  
20          problem. And I would have become aware of the fact  
21          that there was going to be a gross miscarriage of  
22          justice unless there was something done about it. So  
23          sometime around that, the latter part of June, I gave  
24          a call to Jack Quinn.

25          Q       In the period from July 1990 until May

10           1       1991 did you engage in any conversation --  
2           2       telephonically or in person -- with Richard Aznaran  
3           3       about the Aznaran's case against the Church?

4           A       About?

5                   I don't recall. I don't believe so. I  
6           6       may have asked in casual conversation so how are  
7           7       things going. I certainly didn't render any advice of  
8           8       any sort.

9           Q       Did he seek any advice from you?

10          A       No.

11          Q       Did Ms. Aznaran during that period seek  
12       12       advice from you?

13          A       No, not about the case.

14          Q       That was my question.

15                   Did they seek your legal advice with  
16       16       respect to anything to do with the Church, not related  
17       17       to the pending case?

18          A       Not that I recall.

19                   That's a little vague as posed, but not  
20       20       as I recall.

21          Q       Have you had any discussions with Mr.  
22       22       Armstrong about your intervention in the case filed in  
23       23       Marin County in February?

24                   MR. PARKER: Objection, Your Honor,  
25       25       that's irrelevant to this case.

10 1 I'm speaking of a lawsuit that they filed  
2 the day after they lost their motion for terminating  
3 sanctions on January 31st of this year in another  
4 court. It's subsequent to the events in reference, in  
5 this lawsuit. And can't possibly lead to any  
11 6 admissible evidence.

7 MR. DRESCHER: I'm endeavoring to ask the  
8 same question that I was allowed to ask in Mr. Yanny's  
9 intervention in proceedings in Los Angeles, and simply  
10 what the substance of discussions were he may have had  
11 with Mr. Armstrong about the intervention in this  
12 case.

13 MR. PARKER: I filed these papers on  
14 behalf of Mr. Yanny because they're seeking an order  
15 that would gag Armstrong from testifying.

16 THE REFEREE: We went over this earlier.  
17 I sustained the objection.

18 MR. DRESCHER: I didn't ask about his  
19 discussions with Mr. Armstrong in that case. It was  
20 only the early one.

21 MR. PARKER: Same point.

22 THE REFEREE: The objection is sustained.  
23 Go ahead.

24 MR. DRESCHER: There have been a couple  
25 of occasions today in which I have made a record or

11       1       indicated the intention to seek a review of one or  
2       more of the rulings.

3               With that in mind, and the possibility  
4       that we may reopen in that respect, I have no further  
5       questions of Mr. Yanny at this time.

6               THE WITNESS: Don't bang your head on the  
7       way to the courthouse.

8               THE REFEREE: Alright.

9               We're having in mind that depending on  
10       whether relief at another level is requested and  
11       afforded, this deposition is terminated at the moment,  
12       though it's quite possible that it could be renewed at  
13       an appropriate time.

14              MR. PARKER: I propose to relieve the  
15       court reporter of her obligation to maintain custody  
16       of the original transcript.

17              The original transcript will be sent to  
18       me.

19              I would be responsible for getting it to  
20       the witness. He may review the transcript and sign it  
21       under penalty of perjury.

22              And I would propose 30 days or the first  
23       day of trial, whichever comes first, in order to do  
24       that.

25              If he makes changes I will be responsible

11 1 to give you notice of these changes.

2 MR. DRESCHER: I want to see if I can  
3 convince you within 21 days.

4 MR. PARKER: Are you expediting the  
5 transcript?

6 MR. DRESCHER: You bet.

7

8 (Discussion held off the record.)

9

10 MR. PARKER: The transcript will be  
11 expedited and delivered to the witness on Thursday,  
12 and he will sign it no later than three weeks after  
13 that date.

14 If he fails to do so in the absence of an  
15 agreement extending that time, then a copy may be used  
16 as if a certified, signed original for all purposes.

17 And if for any reason the parties need,  
18 any of the parties need to have the original logged  
19 with the court, we'll be responsible for responding to  
20 that question.

21 MR. PARKER: The transcript will be  
22 delivered to our office and we're responsible for  
23 getting it to Mr. Yanny mid-afternoon on Thursday.

24 THE REPORTER: Who is ordering the  
25 original?

11 1  
2 original.

MS. BARTILSON: I'm ordering the

3  
4 with me.

MR. DRESCHER: The stipulation is okay

5 MR. DRESCHER: No copy.

6 MR. PARKER: Copy.

7  
8 (Ending time: 6:20 p.m.)

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STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, declare under penalty  
of perjury that I have read the foregoing  
transcript, and I have made any corrections,  
additions, or deletions that I was desirous of  
making; that the foregoing is a true and correct  
transcript of my testimony contained therein.

Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
JOSEPH A. YANNY

11 1 STATE OF CALIFORNIA )  
2  
3 COUNTY OF LOS ANGELES )  
4

5 I, JAN W. SERRA, CSR No. 8207,  
6 Certified Shorthand Reporter, certify:

7 That the foregoing proceedings were,  
8 taken before me at the time and place therein set  
9 forth, at which time the witness,

10 JOSEPH A. YANNY,

11 was put under oath by me;

12 That the testimony of the witness and  
13 all objections made at the time of the examination  
14 were recorded stenographically by me and were  
15 thereafter transcribed;

16 That the foregoing is a true and correct  
17 transcript of my shorthand notes so taken.

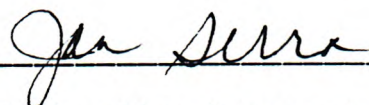
18 I further certify that I am not a  
19 relative or employee of any attorney of any  
20 of the parties, nor financially interested in  
21 the action.

22 Dated this MARCH 11, 1992.

23

24

25

  
\_\_\_\_\_  
Certified Shorthand Reporter